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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 5, 2004.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 2 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, in a culture that prefers the ease of ''either-or'' thinking and ''absolutes'' sneak into everyday conversations, we need Your stable presence, Lord, to understand our own limitations and accept the differences of others.

Unless we are versed in holding onto the mystery in everyday living, life can be boring or filled with just too many contradictions.

Sometimes when we face the end of a term, the autumn of another year, we do look beyond the surface of daily events.

Slowly in the diminishing sunlight the shadows reveal the inner meaning of what has been really happening and what we do truly relish in what has been.

The autumnal events of life can still bear fruit, yet at another time, in another place, or in another person.

The job lost can lead to a work that needs to be done.

The problem unsolved can lead to more insightful questions.

And the self once lost in a crazy routine can be found again and live forever.

Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Connecticut (Ms. DELAURO) come forward and lead the House in the Pledge of Allegiance.

Ms. DELAURO led the Pledge of Allegiance as follows:

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

THE GLOBAL TEST IS A MISERABLE FAILURE

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

Mr. PITTS. Mr. Speaker, Senator KERRY says that our Nation must pass a global test before engaging in military action to protect ourselves. I wonder who gets to administer the test.

Certainly, Mr. KERRY would ask France and Germany for their opinions. Others would probably add Great Britain, Russia, China, and Japan to that list. Most certainly the U.N. and its member states would have a say where our military goes and why.

Unfortunately, the American people would not in a global test. Mr. KERRY would probably ignore a group of Iraqi women who were here in Washington recently. They said the question is not why we removed Saddam Hussein from power, but what took us so long.

An American President is accountable not to the world in how he protects this Nation, but to the American people who rely on him to act to protect them. Other countries should not be able to have veto power over our sovereignty.

Senator KERRY's global test is a miserable failure of a policy idea.

IN NOVEMBER, AMERICANS HAVE A CHANCE TO TRADE GEORGE BUSH

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

Mr. EMANUEL. Mr. Speaker, it may surprise many of my colleagues to hear

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this, but I am now convinced George Bush should remain in Washington. Now that D.C. has a baseball team, there is finally a job in this town which George Bush is qualified for and the work is not that hard or tough.

He may not know how many troops we need in Iraq, but even he knows that you need nine baseball players on the field; and in baseball, you do not declare mission accomplished until the game's last out.

I am surprised the White House has not boasted about the Expos' move from Montreal. After all, they are finally creating some jobs here in America.

Of course, the President would have some explaining to do to his new team. He will have to break it to them that they have just moved from a nation with universal health care to a Nation where 45 million people lack coverage. Welcome to the ownership society.

He will also need to warn them that it is not just chin-high fast balls that they need to watch out for in Washington, since the Republican Congress and the NRA just erased the city's gun laws.

When head of the Texas Rangers, George Bush traded Sammy Sosa. In November Americans have a chance to trade George Bush.

HELP PROMOTE HEALTHY LIFESTYLES IN AMERICA

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

Mr. RYUN of Kansas. Mr. Speaker, I am known for running a 4-minute mile, and while today I run a 4-minute half-mile, I still make running a priority. I know that exercise is preventative medicine at best. Healthy, active lifestyles could save $76 billion in health care costs each year. Health insurance companies clearly have an incentive to keep their beneficiaries healthy.

There are 88 million inactive adults in the United States today. Sixty-one percent of adults exceed their target weight, increasing their risks for more than 30 illnesses, most of which are preventable. Exercise is beneficial to every age group, and for those over the age of 50, strength training has been proven to reduce osteoporosis and increase bone density.

Insurance companies can do more to promote healthy living by offering incentives for those who exercise regularly and encouraging preventative health screenings.

H. Con. Res. 34 commends the health insurance companies who are already acknowledging the benefits of exercise and rewarding their active beneficiaries and encouraging others to do the same. Join me in voting for H. Con. Res. 34 today and help promote healthy lifestyles in America.

REPUBLICAN HOUSE BRIBERY

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

Mr. PALLONE. Mr. Speaker, over the weekend a former Republican Congressman accused Republican leaders here in the House of trying to bribe him in order to gain his support for legislation he did not support. This is not the first time House Republicans attempted to bribe Members of their caucus to vote a certain way, nor will it probably be the last.

This weekend on ''Meet the Press,'' former Republican Congressman Tom Coburn said the Republican leadership offered him a bribe to vote in favor of a transportation bill.

Coburn told moderator Tim Russert that he did not want to support a Republican transportation bill because it was not paid for. So what did the Republican leadership do? I am quoting former Congressman Tom Coburn when he says, ''I was then offered a bribe by the committee to vote for the bill. I could have $15 million to spend wherever I wanted to.'' Coburn continues, ''I don't believe that's the kind of government we want. That's what we're seeing in Congress now with some of the ethical problems that are there.''

Mr. Coburn, I could not agree with you more. Unfortunately, the abuses of power have happened on the Republican Party's watch, and we will not see a change unless Democrats return to power both here in the House of Representatives and in the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). The Chair reminds Members that they should direct their comments to the Chair and not to others in the second person.

PRESIDENT BUSH IS THE RIGHT LEADER IN THE WAR ON TERROR

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

Mr. WILSON of South Carolina. Mr. Speaker, President George W. Bush has led our Nation in the global war on terror with consistent strength and courage. After thousands of innocent Americans were murdered on September 11, he understood the nature of the terrorist threat and immediately went on the offensive to protect American families.

The Democratic Presidential nominee, JOHN KERRY, has proven he has a September 10 approach. When asked what he would do about the war on terror, KERRY said America should hold summits and must pass a global test before defending the American people. This is a mixed message that will do nothing to deter terrorists.

Under President Bush's leadership, America has liberated 50 million people from terrorist-sponsoring regimes in Afghanistan and Iraq, captured or killed hundreds of terrorists, formed a new Department of Homeland Security, initiated training of Iraqi police and military, and stopped the flow of millions of dollars in terrorist funding. President Bush has proven he is the right leader to win the war on terrorism by making courageous decisions to protect American families.

In conclusion, may God bless our troops, and we will never forget September 11.

HEALTH CARE COSTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, average Americans confronting the exploding cost of health care today are continuing to feel the pain, and the Republican leadership of this body who can ease that pain is doing nothing.

We know now that in the past 4 years the cost of health care for the average worker has increased three times faster than the increase in wages. More than 14 million Americans now spend more than one-quarter of their paycheck on health care. Yet House Republican leadership offers no promise of a solution.

These numbers confirm what we hear every day from workers being forced into unconscionable choices. What do we have to offer a parent who must choose between housing and health care? What solution can we promise business owners, particularly small business owners, who must tell employees that they will no longer cover their health benefits?

On one of the most fundamental crises of our time the leadership of Congress is deafly silent. The responsibility, Mr. Speaker, resides here. If the Republican leadership of this House and the President of the United States are not committed to solving this problem, one that costs Americans so much of their paycheck, what excuse can they offer working Americans?

The Republican majority and the President can choose to make health care a priority. I wonder how much longer American workers can afford to wait for leadership.

LOST PUBLIC TRUST

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

Mr. MCDERMOTT. Mr. Speaker, the Office of the President of the United States transcends politics. Even when the person occupying the office violates the public trust, as President Nixon did, the American people lost faith in the politician but not the office. It was an extreme display of patriotism and optimism. America is on the verge of doing that again.

When an administration that claims, as this one did, that it had hard incontrovertible evidence of weapons of mass destruction, the American people believed it because it came from the Office of the President. Now the President's security adviser admits there were serious doubts that Saddam had the aluminum tubes needed for weapons of mass destruction, the very basis for going to war; but the administration ignored the evidence and manufactured the sound bites that took America to war.

In so doing, the administration violated the trust the American people place in the Office of the President. The American people will take the first step in restoring integrity to the Office of the President when they elect JOHN KERRY as the next President on November 2. It cannot come too soon.

CRYSTAL-CLEAR CHOICES

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

Mr. GREEN of Texas. Mr. Speaker, the future of our health care system is at stake in the November election.

In one way or another, every American has experienced the good, the bad, and the ugly about our health care system; and the question voters all across this country should ask themselves is: Are we better off than we were 4 years ago?

Let us take one look at our administration's record on health care. Since 2001, an additional 5.2 million Americans are uninsured. For the American businesses and families, health care premiums have risen more than $3,500 in these 3 years. We are paying more and covering fewer people.

Under this administration's watch, seniors have felt the sting of double-digit Medicare premium increases. Seniors and everyone else's prescription drug costs increase steadily, and we watch the administration fight plans that allow Medicare to negotiate for lower costs.

The American people deserve better. This Congress should do better.

We should fund children's health care programs and expand to working families who cannot afford health care insurance. We need to reverse this administration's damage by cutting our families' health insurance premiums by $1,000 a year.

□ 1015

We should allow for crucial stem cell research that holds such promise for our loved ones.

Mr. Speaker, the choice is clear this November.

150TH ANNIVERSARY OF FOUNDING OF REPUBLICAN PARTY

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

Mr. COX. Mr. Speaker, this is the 150th anniversary of the Republican Party's founding. After a century and a half, from the abolition of slavery to the establishment of women's suffrage, to the liberation of millions of people in the Soviet Union, Afghanistan and Iraq, there has not been any question but that the Republican Party is the most effective political organization in the history of the world in advancing the cause of freedom.

In 1924, this week, Republicans denounced the Democrats' Presidential nominee William Jennings Bryant for defending the Ku Klux Klan at the Democratic National Convention. It was this week in 1868 that Republicans denounced the Democrats for adopting a national campaign theme, ''This is a White Man's Country, Let White Men Rule.''

Mr. Speaker, each day of the year, the Republican Freedom Calendar highlights a civil rights achievement of this most American of institutions. The calendar is available at www.policy.house.gov.

ARE YOU BETTER OFF—HEALTH CARE

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

Mr. RODRIGUEZ. Mr. Speaker, President Bush has had only one policy in the last 4 years and that is the fiscally irresponsible tax cuts to the wealthiest people in this country. Today, an additional 5.2 million Americans are uninsured, and the family share of health care premiums has risen by over $1,000 in 4 years, a 57 percent increase.

In addition, prior to George Bush, we had, for the first time in 12 years, brought down the number of uninsured. Now we find ourselves with 45 million Americans that are uninsured. Family USA just reported the fact that at any given time there are over 80 million Americans without access to insurance during a period of their life.

So we find ourselves in a situation where this administration has failed to keep up with the CHIP program, the program that responds to the needs of our children that are uninsured, of working Americans that are out there paying their taxes, working hard, but finding themselves without access to health care.

This country can do better. We can do better. We have the best health care system in the world. Let us do better.

APPOINTMENT OF CONFEREES ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? The Chair hears none and, without objection, appoints the following conferees: Messrs. FRELINGHUYSEN, ISTOOK, CUNNINGHAM, DOOLITTLE, WELDON of Florida, CULBERSON, YOUNG of Florida, FATTAH, PASTOR, CRAMER, and OBEY.

There was no objection.

PROVIDING FOR CONSIDERATION OF S. 878, CREATING ADDITIONAL FEDERAL COURT JUDGESHIPS

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 814 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 814

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for purposes of debate only.

Mr. Speaker, this resolution before us is a well-balanced, structured rule that provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

It waives all points of order against the committee amendment in the nature of a substitute, and makes in order only those amendments printed in the report of the Committee on Rules accompanying the resolution. It provides that the amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. These amendments shall not be subject to amendment and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, the rule waives all points of order against the amendments printed in the report and provides for one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of the rule for S. 878, a bill to authorize the creation of a number of much-needed Federal judgeships, as well as in strong support of the underlying legislation. This legislation already enjoys strong bipartisan support in the other body, where it was sponsored by my good friend, Senator LARRY CRAIG of Idaho, because it would greatly improve the ability of the Federal judiciary to handle its caseload and increase the number of cases and appeals that sit before them weighing the merits of each case.

By passing this legislation, Congress can help to lighten the load on some of our most overworked Federal judges and reduce the amount of time it takes them to review and process cases for appeal. By adding these new judgeships, Congress will be taking a meaningful step towards making justice in the Federal Judiciary more swift and fair in the United States of America.

We are bringing this legislation to the floor today in response to a survey conducted every 2 years by the Judicial Conference of the United States. The Judicial Conference makes an objective, biennial review of all U.S. Courts of Appeal and U.S. District Courts to determine if additional judges are needed in the Federal Court system. Recently, the Conference determined its benchmark caseload standards for Federal courts at 430 weighted cases per judgeship for district courts and 500 weighted cases per panel for circuit courts. This benchmark was then used to recommend to Congress what new judgeships are needed according to how many cases above the benchmark a particular Federal Court is handling.

The Judicial Conference process also took into account additional criteria that may influence the judgeship needs of each court, including the presence of senior judges and magistrate judges that help to relieve caseloads, geographical factors, unusual caseload complexities, and temporary caseload increases or decreases. Based upon these findings, the Conference then made a recommendation to Congress about how many new judges are currently needed to fill the judgeship gap in the Federal Judiciary.

The Judicial Conference of the United States completed its last review in March of 2003 and submitted a list of recommendations to the House and Senate Committees on the Judiciary. The legislation that we are considering today reflects those recommendations and creates 11 new circuit court seats and 47 new district court seats. In addition, under this legislation, four other temporary district judgeships are converted to permanent status.

Mr. Speaker, my father, Judge William S. Sessions, was a Federal District Judge in San Antonio, Texas, for 13 years, so I have firsthand experience in understanding how overworked judges are and the need we have for additional judges. However, this legislation is not just about making life easier for our Federal judges; it is about providing people with cases before Federal courts with the appropriate recourse to a speedy resolution of their complaints.

A judicial system that is unable to complete its work in a timely fashion compromises the integrity of that system, and this bill will help to restore our Federal courts' ability to rule on matters before them in a fair, deliberative, and expedited fashion. I believe that it is our duty, as Members of Congress, to address the concerns raised by the Judicial Conference of the United States; and by passing this rule, and this legislation, Congress will help address the overwhelming backlog in our Federal Court system.

I encourage all of my colleagues to stand up for our Judiciary by supporting this rule and the underlying legislation.

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

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague for yielding me this time, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, for far too many Americans, justice delayed is justice denied in our Federal Court system. Regrettably, today's Federal courts find themselves without the resources to adjudicate the cases in a timely fashion. Compliance with the Speedy Trials Act of 1974 must seem like an unachievable goal to judges all across this Nation, that struggle to keep our Federal court systems functioning.

Mr. Speaker, the rule before us is a restrictive rule that allows for 1 hour of general debate on this bill to create 47 new Federal district judge positions and add 11 circuit judgeships to the Federal bench. It allows consideration of only two of six amendments offered in the Committee on Rules last night.

Mr. Speaker, I agree that adding new judgeships would help address the backlog in the Federal courts; however, to do so without addressing the congestion in the Federal Bankruptcy Courts is analogous to trying to stop a hemorrhage with a Band-Aid.

It is worth noting that the other body's version of this bill would create 34 bankruptcy judge positions. It is also worth noting that one of the rejected amendments offered by our colleague, the gentleman from Georgia (Mr. KINGSTON), in the Committee on Rules last night would have created 36 new permanent and temporary bankruptcy judgeships.

□ 1030

We would have a better debate on this bill today if this body were allowed to debate the thoughtful amendments that the rule does not make in order.

Mr. Speaker, the Federal courts are hurting. Just last week, the Judicial Conference of the United States voted to delay 42 court construction projects across the country to save $225 million and to avoid laying off as many as 3,500 employees. Last year, Federal courts had to cut 1,000 jobs. The lack of staffing resources only compounds the backlog problem, and the remaining staff is grievously overworked. Even with this extreme action, the Judicial Conference reports that as many as 4,800 court clerks, probation officers and other support staff could still lose their jobs in the next year.

According to the chief judge of the bankruptcy court for the Western District of New York, the number of bankruptcy cases filed has steadily increased nearly 10 percent for each of the last 4 years. Yet despite the increased workload, the court's funding was substantially reduced over the past 2 fiscal years, and it is bracing itself for a 15 percent reduction in fiscal year 2005. Judge John Ninfo writes that ''the immediate impact is the need for the court to terminate the employment of four to five people, all of whom have served this court extremely well. The

adverse impact upon the families of those people will be substantial.''

Judge Ninfo goes on to say, ''The court anticipates the need to significantly reduce services to the bar and the public, which will cause hardship on debtors and creditors during a time that is already difficult and stressful.''

Mr. Speaker, we must do more to address the backlog in the Federal courts than simply adding new positions to the bench. We must provide the resources necessary for staffing and the efficient operation of justice. We must show more respect for the third branch. Vilifying the courts or singling out so-called activist judges is counterproductive. Certainly, stripping jurisdiction away from the courts to hear cases relating to the Pledge of Allegiance or same-sex marriage is not helpful and, I do not believe, constitutional.

The current push to strip the courts of jurisdiction when controversial decisions are issued is not novel. It has been tried before. In the 1960s and 1970s, in the aftermath of the historic decision in Brown v. Board of Education, Congress repeatedly attempted to strip the courts of the power to hear school desegregation suits or to order busing to achieve integration. More recently, it has been tried to strip courts of jurisdiction to hear challenges to laws prohibiting abortion or suits against public schools that require prayer. These shortsighted efforts raise significant balance-of-power questions and demean this austere body. Lest we forget the words of James Madison, the father of our Constitution, who two centuries ago explained that the courts are the ''impenetrable bulwark'' that transform the Bill of Rights into enforceable rights, a very important statement.

I, therefore, caution my colleagues to consider the full ramifications of court-stripping action. It does little good to have an abstract constitutional right if no court can ever enforce it.

Mr. Speaker, the bill before us today provides this body with the opportunity to take a look at the state of the judiciary. Adding new judgeships will help, but we need to do more to ensure the strength and the independence of the judicial branch, the protector of our constitutionally guaranteed rights.

Mr. Speaker, I call for a ''no'' vote on this rule.

Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. BERMAN).

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, I appreciate the gentlewoman yielding me this time, and I rise very disappointed in the rule proposed for the consideration of S. 878 and intend to vote against it and urge my colleagues to oppose it.

This rule makes in order only two amendments, both offered by Republican Members. It rejects four other amendments, including one that I myself offered. There is no defensible substantive rationale for this decision. There is a political rationale that is barely defensible. While my amendment would have required a waiver, both amendments that the Committee on Rules chose to make in order also required waivers. While my amendment has not been formally considered by the Committee on the Judiciary, the committee has also not considered the amendment proposing to split the Ninth Circuit. The Committee on Rules has once again decided to stifle an open debate. To make matters worse, its rule furthers a partisan political objective to the detriment of an important policy goal.

I think the American public deserves to hear a little about the amendments that the Rules Committee does not want debated. The amendment that I sought to offer would have provided parties in a court proceeding with the opportunity to petition for an appeal of a judge's refusal to recuse himself. The amendment would have left it to the discretion of the courts to decide the appropriate circumstances in which such petitions should be granted. Unlike the judicial misconduct statute, the recusal statute currently provides no opportunity to appeal a judge's refusal to recuse himself. My amendment would have simply brought the procedures for addressing recusal and misconduct decisions into line with one another.

Chief Justice Rehnquist himself highlighted this statutory anomaly in a letter to several U.S. Senators. These Senators had expressed concern that Justice Scalia did not recuse himself from a case in which Vice President CHENEY was a named litigant. While this case was pending, Justice Scalia had taken a duck-hunting trip with the Vice President. Not only did they hunt together for several days, but Justice Scalia had traveled with the Vice President aboard Air Force Two. In a public document explaining his refusal to recuse himself from a case involving his hunting buddy, Justice Scalia wrote that he did not believe ''his impartiality might reasonably be questioned.'' In commenting on Justice Scalia's decision, Chief Justice Rehnquist noted, ''there is no formal procedure for a court review of a decision of a justice in an individual case.''

My own feelings about the propriety of Justice Scalia's refusal to recuse himself are not important. What is important, however, is the opinion of the American people. The efficacy of our court system depends entirely on the perception that the courts will administer justice impartially. If the courts lose the trust of the people, they lose their only real power. Reasonably or not, many folks around the country did question whether Justice Scalia could be impartial in a case involving a hunting buddy. It is clear that Justice Scalia's declaration of impartiality did not, in and of itself, put these questions to rest. To the extent these questions persist, our court system suffers.

The amendment I wanted to offer would have gone a long way to addressing this problem. If this amendment had been the law when Justice Scalia refused to recuse himself, the litigants in the Cheney case could have petitioned the Supreme Court to review Justice Scalia's decision. Dismissal of that petition by a panel of justices would have gone a long way to quelling questions about Justice Scalia's impartiality. Unfortunately, without such review, those questions persist; not in my mind because my guess is Justice Scalia could have gone duck hunting with my colleague from California (Mr. WAXMAN), and he would have still ruled on Vice President CHENEY's side of that case. The thought of Justice Scalia and Congressman WAXMAN duck hunting together is an interesting one. Without such a review, the questions persist in the eyes of the American people. Their persistence rots the foundation of our judicial system.

I presented my amendment to the Rules Committee because we must act before further questions arise and the public loses more confidence in the judiciary. Apparently, the Rules Committee is less concerned about this crisis in confidence than about the prospect of an uncomfortable debate.

In addition, a number of other amendments that were offered in the Rules Committee were denied: one dealing with the issue of cameras in the courtroom; one with the absence of this bill to provide the bankruptcy judges that are needed in our Federal bankruptcy system; a third dealing with the loss of COLAs by judges during the years that Congress did not pass the COLA increase for itself and the Federal judiciary, an issue which definitely impacts on the ability of the Federal courts to attract the best possible candidates for the Federal judiciary.

What it did allow was an amendment proposing to split the Ninth Circuit, at tremendous cost, against the opposition of the overwhelming majority of the Ninth Circuit justices, into three different circuits. I vigorously oppose that amendment. I will not use this time to speak on that amendment. I will speak on it when it comes up. My only point in mentioning that is one very controversial amendment that required a waiver was allowed by the Rules Committee; three other amendments which may have also been controversial and required the same kind of a waiver were denied by the Rules Committee. I think that makes for an unsatisfactory rule, and I urge opposition to it.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think the American public

should know that we are addressing today the reconfiguration of Federal courts, and there are several crises that I think are abounding without the appropriate amount of time to debate this very important question.

First of all, in my own Southern District, we reported just a couple of days ago that our courts are having to lay off personnel, having to delay court decisions, and that means the access of constituents into the courthouse of justice—because of the lack of dollars that provide resources that are necessary to administer the courts—is denied. Over the years, we have attempted to increase compensation to our Federal judges, and my disappointment in the fact that the amendment offered by the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) to increase Federal judges' salaries by 16.5 percent was not allowed. Over the years, we have overlooked the increasing need for increased compensation for these judges who are lifetime appointees.

But the most egregious amendment that was allowed was to be able to divide the courts, the Ninth Circuit in particular, into three different circuits. One would think that that was done for the efficiency of justice, but I can clearly denote for those who are listening that it was really done to water down the kind of open and free decisions that are being made by the Ninth Circuit. What they are doing is, if you don't like the decisions, let's implode the court and make it into the 13th and the 12th. Here we go again trying to undermine the rendering of justice and the freedom of judges to look at the facts and to make the right decisions. I would hope that, any time we come and discuss the Constitution, the Federal court system, the Supreme Court, the district courts, the circuit courts, that we do it with an eye toward freedom and enhancing justice and opening the courts so that all petitioners might feel free to go in, and that the judges will not be intimidated by those who take offense to both lifetime appointees and the courts' decisions, and certainly we should question those who want to take and destroy the court system by their own amendments and their own views.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time. I simply want to make the point that on a party-line vote, the Rules Committee Republicans rejected making the following four bipartisan amendments in order under the rule:

The first one was offered by the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) to increase Federal judges' salary;

A Democratic amendment by the gentleman from Michigan (Mr. CONYERS) permitting Federal judges to allow photographing or televising court proceedings at their discretion;

An important amendment offered by the gentleman from California (Mr. BERMAN) that would allow a party to petition for a three-judge panel to override a Federal judge's refusal to recuse herself or himself from a case;

And the Republican amendment, a very important one, by the gentleman from Georgia (Mr. KINGSTON) to create 36 new permanent and temporary bankruptcy judges.

I think that renders this bill fairly useless, Mr. Speaker.

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

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

The points that have been made by my colleagues on the other side, I think it is important for us to recognize that the Ninth Circuit Court of Appeals has 48 judges. That is twice the number of total judges of the next largest circuit.

□ 1045

The Ninth Circuit represents some 56 million people, roughly one-fifth of this Nation's population. And this is 25 million more people than the next largest circuit. The gentleman from Wisconsin (Chairman SENSENBRENNER), the wonderful chairman of the Committee on the Judiciary here in the House, held hearings on this subject to gain information to be able to render a reasonable observation about how important this would be; and, in fact, we do believe that addressing this problem by breaking up and adding more circuits would be beneficial, would be beneficial to not only other States and other petitioners, but also to make sure that the effective enforcement of justice was properly achieved in the United States of America.

So I am proud to say that the Committee on Rules did yesterday hear the debate about the amendments that were before us. We looked at and I believe properly rendered a decision to say that we are concerned about the number of judges, we are concerned about the way the courts look in terms of the circuit courts that are available to people for litigation, and we moved forward with a bill that I believe is balanced, one which I believe will pass, one which I believe will mirror the other body to make sure that the effective use of judges, effective use of resources, and effective legislation by the United States Congress, hopefully to be signed by President George W. Bush, will be achieved with this legislation.

I wholeheartedly support not only this legislation but would ask each of my colleagues to support this rule and the underlying legislation. And I want to thank, for his exemplary service, the gentleman from Wisconsin (Mr. SENSENBRENNER), who is the fabulous chairman of the Committee on the Judiciary, for bringing forth this bill today.

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

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 198, nays 171, not voting 63, as follows:

[Roll No. 490]

YEAS—198

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nussle
Osborne
Ose
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—171

Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Lee
Levin
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Woolsey
Wu

NOT VOTING—63

Abercrombie
Alexander
Baird
Boehlert
Brown, Corrine
Buyer
Cannon
Clay
Cubin
DeMint
Doggett
Engel
Forbes
Gephardt
Goode
Greenwood
Hall
Harris
Hastings (FL)
Hinchey
Hoeffel
Hostettler
Isakson
John
Jones (OH)
Kirk
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lewis (GA)
Lipinski
Majette
McGovern
Meeks (NY)
Millender-McDonald
Mollohan
Myrick
Napolitano
Nethercutt
Norwood
Nunes
Oberstar
Otter
Payne
Portman
Quinn
Rothman
Souder
Stenholm
Sweeney
Tauzin
Terry
Toomey
Towns
Turner (TX)
Waters
Weiner
Weldon (PA)
Wexler
Wicker
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1112

Messrs. RANGEL, PASCRELL, SCOTT of Georgia and ACKERMAN changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. NUNES. Mr. Speaker, on the legislative day of Tuesday, October 5, 2004, the House had rollcall vote No. 490. Unfortunately, I was unavoidably detained. Had I been present, I would have voted ''yea'' on the rollcall vote.

Mr. WICKER. Mr. Speaker, on rollcall No. 490 I was unavoidably detained. Had I been present, I would have voted ''yea.''

The SPEAKER pro tempore. The question is on the resolution.

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

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 206, noes 173, not voting 53, as follows:

[Roll No. 491]

AYES—206

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—173

Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Woolsey
Wu

NOT VOTING—53

Abercrombie
Alexander
Baird
Boehlert
Brown, Corrine
Buyer
Cannon
Clay
DeMint
Doggett
Engel
Forbes
Gephardt
Goode
Greenwood
Hall
Harris
Hastings (FL)
Hinchey
Hoeffel
Isakson
John
Jones (OH)
Kirk
Kucinich
Lampson
Lantos
Lewis (GA)
Majette
McGovern
Meeks (NY)
Millender-McDonald
Mollohan
Myrick
Napolitano
Nethercutt
Norwood
Oberstar
Payne
Portman
Quinn
Souder
Stenholm
Sweeney
Tauzin
Terry
Toomey
Towns
Turner (TX)
Waters
Weldon (PA)
Wexler
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1120

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, today, I missed 2 votes. Had I been present, I would have voted the following way:

Yes on rollcall Vote No. 490, On ordering the previous question providing for consideration of S. 878, to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

Yes on rollcall Vote No. 491, On agreeing to H. Res. 814, providing for consideration of S. 878, to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

Mr. MCGOVERN. Mr. Speaker, I was unavoidably detained for rollcall votes numbers 487, 488, 489, 490, and 491. If I was present, I would have voted:

''Aye'' on rollcall No. 487; ''aye'' on rollcall No. 488; ''aye'' on rollcall No. 489; ''nay'' on rollcall No. 490; and ''nay'' on rollcall No. 491.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5122. An act to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1047) ''An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes,'' agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. FRIST, and Mr. BAUCUS, to be the conferees on the part of the Senate.

The message also announced that in accordance with the return of the papers to the Senate providing for technical corrections, said corrections having been made, the Secretary be directed to return to the House (H.R. 4567) ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.''

The message also announced that pursuant to section 104(c)(1) of Public Law 108–199, the Chair, on behalf of the Majority Leader and Democratic Leader of the Senate, and the Speaker of the House and Minority Leader of the House, announces the joint appointment of the following individual to serve as Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program:

Peter McPherson.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 878.

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

There was no objection.

CREATING ADDITIONAL FEDERAL COURT JUDGESHIPS

The SPEAKER pro tempore. Pursuant to House Resolution 814 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 878.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, the Judicial Conference of the United States reviews the judgeship needs of United States courts every 2 years to determine if any of the courts need additional judges. The Conference completed its last review in March of 2003, and then submitted its recommendations to the House and Senate Committees on the Judiciary. I am pleased that the bill as reported by the Committee mirrors that recommendation. Thus, these are judgeships being created based upon demonstrated need and not upon politics.

The Judicial Conference bases its recommendations on a variety of factors that indicate the needs of various courts. Most importantly, it sets a benchmark caseload standard for considering judgeship requests at 430 weighted cases for individual judges on the district courts and 500 adjusted case filings for the three-judge panels on the courts of appeal. Aside from the numbers, it also considers additional criteria, including senior judge and magistrate judge assistance, geographical factors, unusual caseload complexity, and temporary caseload increases or decreases.

Based on these criteria, the Conference's current proposal recommends that Congress establish 11 new judgeships in four courts of appeal and 46 new judgeships in 24 district courts. The Conference also recommends that five temporary district court judgeships created in 1990 be established as permanent positions. Many of these needs have existed for many years.

The other body passed Senate 878 on May 22, 2003. The Senate bill created 12 permanent district judgeships, two temporary district judgeships, and a number of bankruptcy judgeships. This version of S. 878 also converted two temporary district judgeships to permanent status.

During our September 9 markup on the legislation, the Committee on the Judiciary revised the bill in two major ways.

First, we added all the circuit and district judgeships recommended by the U.S. Judicial Conference that were not included in the Senate bill. This brings the total number of new judgeships in the bill to 58, 11 circuit court seats and 47 district court seats. In addition, four other temporary district judgeships are converted to permanent judgeships.

The Subcommittee on Courts, the Internet, and Intellectual Property conducted an oversight hearing on Federal judgeship needs last year, and we are satisfied as a committee that the submissions developed by the Judicial Conference are meritorious. I emphasize that all the judgeships in the bill before the House could more than satisfy the threshold requirements developed by the Judicial Conference.

Second, all of the bankruptcy judgeships set forth in S. 878 as passed by the other body were stricken. These will be dealt with in the context of the bankruptcy reform legislation which the House has passed and which is currently pending before the other body.

Mr. Speaker, whatever our occasional differences with the third branch, it is our responsibility to ensure that our Federal courts have the resources necessary to allow citizens to seek legal redress in civil disputes and to permit the prosecution of criminal offenses when appropriate. This is a basic function of government.

I urge the Members to support the underlying text of S. 878, as well as the amendment that I will shortly offer to ensure that this bill does not run afoul of the Budget Act, based on the CBO score that accompanies this bill.

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

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

Mr. Chairman, I rise in conditional opposition to S. 878. The reason I would oppose this bill is if the amendment offered by the gentleman from Idaho is passed by this body.

I firmly believe we should pass a judgeship bill, and I supported it, Senate bill 878, as it was reported out by the House Committee on the Judiciary. The reported bill created all new Article 3 judgeships requested by the Administrative Office of the U.S. Courts. As a result, it would provide critical assistance to many Federal district

and appeals courts currently staggering under tremendous caseloads.

As reported, S. 878 is largely noncontroversial and enjoyed bipartisan support at the House Committee on the Judiciary markup. In fact, if S. 878 were brought up on the Suspension Calendar, as it should have been, I have no doubt it would have passed on a voice vote.

Since it is so noncontroversial, we might ask ourselves why the House's valuable time must be wasted debating S. 878 under a rule. Why are we not using this valuable time to deal with the more difficult appropriations or national security bills?

The answer is that a decision has been made to turn this noncontroversial bill into campaign season cannon fodder. This noncontroversial bill comes before us on a rule in order to provide an opportunity to debate an amendment soon to be offered by the gentleman from Idaho.

The tragedy is that this tactic may result in the adoption of a highly inadvisable amendment. An adoption of this amendment, which would split the Ninth Circuit Court of Appeals into three circuits, will signal the death knell for S. 878 in the Senate.

I will discuss my reasons for opposing that amendment in some detail when it is offered, but I can state at this time that if this amendment were to pass, it would be the first time in the history of our Federal judiciary that we have split a circuit against the will of the justices of that circuit.

If the amendment is adopted, S. 878 will die in the Senate. There is no question about that.

I might also point out that S. 878, as it passed out of committee, while noncontroversial, failed to include any of the new bankruptcy judges that are very important to deal with the tremendous caseload problems in our bankruptcy courts. The Committee on the Judiciary stripped out all of the bankruptcy judgeships because the majority thought that requiring the Senate to pass the bankruptcy reform bill, which also contains authorization for those same judgeships, might be leveraged in the process. I think that is a strategy that is destined to fail and it is a failure in S. 878, in that the judges so desperately needed on the bankruptcy court are not included in this bill.

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

□ 1130

Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, I rises today not only as a member of the Committee on the Judiciary but as chair of the California Democratic Delegation to say we need more judges, but we do not need to split the Ninth Circuit. It is important to know that California's Republican Governor, Arnold Schwarzenegger opposes the proposed split as does former Republican Governor Pete Wilson. Our two Democratic Senators, DIANNE FEINSTEIN and BARBARA BOXER, also oppose the split, and the American Bar Association and the California Academy of Appellate Lawyers also oppose the split. Even the judges of the Ninth Circuit oppose the split by a 30-to-9 margin.

According to the Administrative Office of the Courts, the start-up cost for such a split would be $131 million, and there would be an additional $21.7 million in extra personnel costs every year.

Why would we waste these millions? The Ninth Circuit is not broken. Although the Ninth Circuit contains the largest number of judges of any Federal circuit, the ratio of published opinions to the number of judgeships is well within what is applicable to other circuits. It is also worth noting that the circuit judges in the Ninth Circuit take only 1.4 months to decide cases following argument, while the national average is 2.1 months.

Despite all the rhetoric, the Ninth Circuit's reversal rates compare favorably with every other circuit. So I would urge my colleagues to oppose and vote down the amendment to split the circuit. We do need these judges. But join the Republican governor and the judges and the taxpayers, who do not want to fund this waste, in turning down this ill-conceived amendment to split the Ninth Circuit so that we can move forward and get those judges that we need.

Mr. BERMAN. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. SCHIFF), a member of the Committee on the Judiciary.

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

I rise with the same conditional support of S. 878 as my colleague from California (Mr. BERMAN). The base bill responds to a crisis of judicial vacancies in our country by authorizing a number of much-needed judgeships.

Since arriving at Congress, I have been very surprised by the poor state of relations between our branches and the absence of comity that has existed between the Congress and the courts. The Federal caseload continues to increase at a record pace, reaching record levels. Courthouse funding is woefully inadequate, failing to meet the needs of Federal courts in order to carry out their critical mission and to make necessary improvements in priority areas such as courthouse security.

Judicial confirmations continue to be mired in political brinksmanship and judicial compensation has not kept pace with inflation. What is more, the Congress has now resorted to a more proactive attack on the judicial branch which we have seen on the floor of this body most recently in the form of court-stripping proposals.

Today's action on this legislation, barring the Simpson amendment, is a welcome and long overdue step in recognizing our responsibility in Congress to support the judiciary. But I am gravely concerned about the potential of the Simpson amendment. It seems to fly directly in the face of the White Commission's report analyzing when circuits should be split and when they should not. The White Commission reported in 1998: ''There is one principle that we regard as undebatable. It is wrong to realign circuits or not to realign them and to restructure courts or to leave them alone because of particular judicial decisions or particular judges. This rule must be faithfully honored for the independence of the judiciary is of constitutional dimension and requires no less.''

The Judicial Conference of the United States periodically completes a review of judgeship needs. As a result of rapid increase in the caseloads of our courts, the conference recommended that Congress establish 11 new judgeships and four courts of appeals and 46 new judgeships and 26 district courts. It also recommended five temporary judgeships become permanent.

The base bill is an important step in fulfilling that goal, and the House bill authorizes more than 50 new judgeships across the United States. However, if this bill becomes bogged down in an amendment which would only continue the assault on the judiciary, contravene the will of the judges of the circuit itself, it will be a step in the wrong direction. Circuit division would eliminate a number of important advantages that come from a large circuit. It would eliminate the ability to transfer judges from one district to another within the same circuit to deal with fluctuating caseloads. It would reduce the number of circuit judges available to decide the cases from the growing border of districts from Arizona and southern California.

For these reasons, division of the circuit is strongly opposed by a bipartisan coalition of judges and officials. The judges of the Ninth Circuit have voted overwhelmingly 30 to 9 against division. In addition, California Governor Arnold Schwarzenegger strongly opposes any effort to break up the circuit.

What is more, as the White Commission wrote, ''there is no persuasive evidence that the Ninth Circuit or any other circuit for that matter is not working effectively or that creating new circuits will improve the administration of justice in any circuit or overall. Furthermore, splitting the circuit would impose substantial costs of administrative disruption, not to mention the monetary costs of creating a new circuit. Accordingly, we do not recommend to Congress and the President that they consider legislation to split the circuit.''

Are we going to take a bill that was one of the few positive lights in the relationship between the Congress and the courts and turn it into yet another assault on the wishes and the needs of the judiciary?

To quote the White Report again, ''Maintaining the Court of Appeals for the Ninth Circuit as currently aligned respects the character of the west as a distinct region.''

Mr. Chairman, I urge support for the base bill and rejection of the Simpson amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I rise today in support of Senate S. 878 which authorizes the creation of certain new U.S. circuit and district judgeships as well as converts temporary judgeships to permanent status.

Mr. Chairman, I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and his staff for their leadership in addressing the urgency for additional Federal district judgeships in the United States District Court of New Mexico, especially in Las Cruces, New Mexico. This desperate judicial situation in the southern New Mexico district is manifest in crushing caseloads, unique geographical factors, and the exhaustion of judicial resources. Data indicates that the district has the fourth highest total criminal caseload per judgeship in the Nation with 739 weighted cases per judgeship. This is 46 percent higher than the national average and a 150 percent increase from 1996.

This extraordinary caseload is primarily attributed to the geographical factors unique to the district. Immigration and narcotics cases are almost exclusively driving the increase, placing an extraordinary burden on the Las Cruces Federal Courthouse, which is just 50 miles away from the U.S.-Mexico border. The district has begun to exhaust all judicial resources. One option to handle the enormous caseload in Las Cruces is assigning rotating duties to district judges from Albuquerque and Santa Fe, requiring judges and their staffs to travel more than 450 miles roundtrip during the week. Many of the judges are even called in from other jurisdictions.

U.S. district judges from Vermont to Kansas have presided in Las Cruces regularly and conclude that they have never seen a caseload as high as in the entire time they have been on the bench. One judge commented that, in 28 days, he handled more capital cases in 28 days than he did during an entire year in Vermont.

The desperately needed judges provided for in this legislation will decrease the weighted filings by half, bringing the district on parity with the rest of the districts in the United States.

Again, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his fine leadership on this legislation and urge passage of S. 878.

Mr. BERMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman from California (Mr. BERMAN) for yielding me time.

Mr. Chairman, I am tired of my Republican colleagues using the term ''activist judges'' to scare citizens into believing our Federal judiciary has lost all credibility and seeks only to promote an activist liberal agenda, and I am taking this time today to tell you why.

This is plainly not the truth. It is wrong, and it is illogical. In fact, was not it activist unelected judges who appointed the current President of the United States of America? The only threat these judges, most of whom were appointed by Republican Presidents, present is shutting down the Republicans ultra-conservative agenda and actually proving that many of the policies Republicans promote are unconstitutional or discriminating.

Let us take the controversial Ninth Circuit Court as an example. Twenty-six judges sit on this court. My Republican colleagues talk as if all of these judges are out to destroy the morals of this country, that these judges will destroy the fabric of our families and sensor religious practices perhaps because our colleagues on the other side of the aisle believe that these judges do not believe in fundamental Christian values. But at least half of these judges have conservative leanings. And I ask, is 50 percent not enough?

My Republican colleagues also like to insinuate the Democrats have appointed most of the active judges in our courts today. But they are mistaken. Since President Jimmy Carter was in office, Democrats have appointed 634 judges. Republicans have appointed 735 judges. It seems to me that Republicans know their policies are so radical that they will not stand up in court, and the only way to ensure their policies will stay on the books is to wipe out our jurisdiction system and erase our systems of checks and balances.

Republicans are destroying the courts, undermining judges' decisions, bullying those who stand by the Constitution. Do not let them tell you they are fighting activist judges. They are just carrying out their paranoid control. Mr. Chairman, if the judges in this country were so biased, so against conservative values, how did our current President get appointed in the year 2000? Those judges did not seem too activist to Republicans at that time, did they?

Mr. UDALL of Colorado. Mr. Chairman, I will vote against this amendment because I am concerned that whatever benefits it might have are outweighed by the costs to the taxpayers that it would entail.

The current jurisdiction of the Ninth Circuit is certainly extensive—from Alaska to Hawaii, Guam, and the Commonwealth of the Northern Marianas and including California, Nevada, Arizona, Idaho, Montana, Nevada, Oregon, and Washington.

The populations of several of these states have increased considerably in recent years, and it can be anticipated that the caseloads of the Ninth Circuit will continue to increase accordingly. So, there might be something to be said for realigning the judicial districts now included in the Ninth Circuit.

However, I do not think that it is appropriate for the House of Representatives to make such an important decision on the basis of the very brief consideration that we are being permitted today.

And I certainly think that before making such a serious decision, we should consider how it would affect the ability of the federal courts to do their job.

Regarding that aspect of the matter, I think we should all pay careful heed to the analysis of the Administrative Office of the United States Courts contained in a May 14th letter from its Director, Leonidas Ralph Meacham, to Senator FEINSTEIN.

Discussing proposals to divide the Ninth Circuit in ways similar to that proposed in this amendment, Mr. Meacham wrote ''The judiciary is not in a position to absorb any of the additional costs'' that would result. He goes on to say that dividing the Ninth Circuit into three circuits—which is what this amendment would do—''would likely require one-time start-up funding ranging from $16.7 million to $18.9 million for space alterations, information technology and telecommunications infrastructure, furniture, and law books. In addition, a new courthouse would have to be built'' (and another modernized) that would cost millions more. Also, according to Mr. Meacham, ''The judiciary would also require an additional $21.7 million annually in recurring personnel and operating expenses.''

At a time when our courts are already hard-pressed for funding and the overall federal budget is drowning in red ink, I think we should not lightly incur such additional costs—and certainly not on the basis of a mere 40 minutes of debate on this amendment.

Instead, any measure to realign the Ninth Circuit—or any other part of the federal courts, for that matter—should be carefully reviewed in committee and then considered by the House of Representatives under procedures that allow full consideration of its potential benefits and the costs that would be involved.

If such a measure is considered under those considerations, I will review it carefully and will support it if I am convinced that it deserves approval. However, I have not reached that conclusion about this amendment and so I will vote against it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in partial support of the bill before the Committee of the Whole, S. 878, authorizing the addition of permanent judgeships in the District of Idaho and for other purposes. As introduced, the bill only authorized the President to appoint a new U.S. district judge for the District of Idaho. Substitutes adopted by the Senate Judiciary Committee (on May 20, 2003) and the full Senate (two days later) added another 15 district judgeships (permanent, temporary, or temporary converted to permanent), along with 29 permanent and seven converted (temporary-to-permanent) bankruptcy judgeships.

The rule reports out of the Committee on Rules, H. Res. 814, severely hindered the ability of Members to improve this legislation by ruling only two—Republican—amendemtns in order. The amendment offered by the Chairman of the Judiciary Committee that would stagger the implementation of this legislation to accommodate budgetary needs.

On the other hand, the amendment offered by the gentleman from Idaho threatens to

water down the 9th Circuit and effectively strip the existing courts of their ability to take up cases. This effect would be consistent with the line of court-stripping legislation that has passed in this House recently—the Pledge Protection Act; the Federal Marriage Amendment; the Marriage Protection Act.

The amendment that was offered by the Distinguished Ranking Member of the Judiciary Committee that would call for increases in the pay that federal circuit judges receive should have been ruled in order.

We must protect the power and discretion of the Courts and we must preserve the sanctity of the U.S. Constitution. The way that we legislate to change the makeup of the federal circuit courts will have a tremendous effect on the development of jurisprudence.

The Subcommittee on Courts, the Internet, and Intellectual Property conducted an oversight hearing regarding federal judgeship needs on June 24, 2003. The Subcommittee reviewed the original request for additional circuit and district judgeships developed by the U.S. Judicial Conference and the methodology adopted to justify the submission.

The Judicial Conference of the United States (Conference) reviews biannually the judgeship needs of all U.S. courts of appeal and U.S. district courts to determine if any of the courts require additional judges to administer civil and criminal justice in the federal court system. The Conference then submits its recommendations to the House and Senate Committees on the Judiciary. The Conference completed its last review in March, 2003, and submitted its recommendations to Congress.

The Conference set a benchmark caseload standard for considering judgeship requests at 430 weighted cases per judgeship for district courts and 500 adjusted case filings per panel for courts of appeal. The Conference process takes into account additional criteria that may influence the judgeship needs of each court, including senior judge and magistrate judge assistance, geographical factors, unusual caseload complexity, and temporary caseload increases or decreases.

Therefore, I support this legislation only insofar as it aids in the administration of justice; however, I reserve my opposition to the negative effects that I can have on the discretion that federal judges have.

Mr. SMITH of Texas. Mr. Chairman, the Chairman did a good job of summarizing S. 878 so I will not repeat his description of the bill.

I would emphasize that during my Subcommittee's oversight hearing on judgeship needs last year we received testimony from the Judicial Conference and others that supported the requests that are a part of this package.

The need to create new circuit and district judgeships is real and speaks to our obligation to assist a coequal branch of government in discharging its duties on behalf of the American people.

I urge Members to support the bill and the Sensenbrenner amendment that will cure a scoring problem with consideration of S. 878.

Mr. THOMAS. Mr. Chairman, I rise today in support of S. 878, which would make important upgrades to the Federal judiciary's infrastructure. I appreciate the leadership Chairman SENSENBRENNER has exhibited in the development of this legislation, which would establish 58 new Federal judgeships.

As reported by the House Committee on the Judiciary, S. 878 would provide 47 new Federal district court judgeships. Significantly, S. 878 reflects legislation (H.R. 3486) that I introduced earlier this year in that S. 878 would convert the expired temporary judgeship in the U.S. District Court for the Eastern District of California temporary judgeship to a permanent judgeship and add three additional permanent judgeships.

These additional four judgeships are much-needed as the seven judges in the Eastern District are currently carrying an average weighted caseload of 788 each, far in excess of the 430 benchmark used by the U.S. Judicial Conference to determine when additional permanent judgeships are required. Moreover, it must be noted that the judges of the Eastern District have exceeded that benchmark since 1998, when their average weighted caseload was 567. The judges of the Eastern District also have an average of 920 pending cases each, an increase of 25 percent since 1998.

In addition, the Eastern District continues to see an annual increase in total filings; in 2003, 5,853 cases were filed in the Eastern District, which is an increase of 1,139 cases from the 4,714 cases filed in 1998. As one would expect, the number of pending cases in the Eastern District has likewise increased; in 2003, there were 6,440 cases pending, which is an increase of 1,269 since 1998.

Accordingly, I encourage my colleagues to continue to work to quickly enact legislation to provide the Federal judiciary, and especially the Eastern District of California, with the resources necessary to efficiently and effectively administer justice.

Mr. BERMAN. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

S. 878

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

SECTION 1. NEW DISTRICT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of Alabama.

(2) 1 additional district judge for the middle district of Alabama.

(3) 3 additional district judges for the district of Arizona.

(4) 1 additional district judge for the northern district of California.

(5) 3 additional district judges for the eastern district of California.

(6) 1 additional district judge for the central district of California.

(7) 2 additional district judges for the southern district of California.

(8) 2 additional district judges for the middle district of Florida.

(9) 4 additional district judges for the southern district of Florida.

(10) 1 additional district judge for the district of Idaho.

(11) 1 additional district judge for the western district of Missouri.

(12) 1 additional district judge for the district of Nebraska.

(13) 2 additional district judges for the district of New Mexico.

(14) 3 additional district judges for the eastern district of New York.

(15) 1 additional district judge for the district of Oregon.

(16) 1 additional district judge for the district of South Carolina.

(17) 2 additional district judges for the eastern district of Virginia.

(18) 1 additional district judge for the district of Utah.

(19) 1 additional district judge for the western district of Washington.

SEC. 2. CONVERSION OF TEMPORARY TO PERMANENT JUDGESHIPS.

The existing judgeships for the eastern district of California, the district of Hawaii, the district of Kansas, the eastern district of Missouri, that were authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101–650) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall, as of such date of enactment, hold those offices under section 133 of title 28, United States Code, as amended by this Act.

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of California.

(2) 2 additional district judges for the central district of California.

(3) 3 additional district judges for the southern district of California.

(4) 1 additional district judge for the district of Colorado.

(5) 1 additional district judge for the middle district of Florida.

(6) 1 additional district judge for the northern district of Illinois.

(7) 1 additional district judge for the northern district of Indiana.

(8) 1 additional district judge for the southern district of Indiana.

(9) 1 additional district judge for the northern district of Iowa.

(10) 1 additional district judge for the district of New Mexico.

(11) 1 additional district judge for the eastern district of New York.

(12) 1 additional district judge for the western district of New York.

(b) VACANCIES NOT FILLED.—(1) The first 2 vacancies in the office of district judge in the central district of California, occurring 10 years or more after judges are first confirmed to fill both temporary judgeships created in that district by subsection (a), shall not be filled.

(2) The first 3 vacancies in the office of district judge in the southern district of California, occurring 10 years or more after judges are first confirmed to fill all 3 temporary judgeships created in that district by subsection (a), shall not be filled.

(3) The first vacancy in the office of district judge in each district named in subsection (a), other than the central or southern district of California, occurring 10 years or more after judges are first confirmed to fill the temporary judgeship created in that district by subsection (a), shall not be filled.

SEC. 4. CONFORMING AMENDMENTS.

The table contained in section 133(a) of title 28, United States Code, is amended—

(1) by amending the item relating to Alabama to read as follows:

''Alabama:

Northern 8
Middle 4
Southern ..... 3'';

(2) by amending the item relating to Arizona to read as follows:

''Arizona ..... 15'';

(3) by amending the item relating to California to read as follows:

''California:
Northern 15
Eastern 10
Central 28
Southern ..... 15'';

(4) by amending the item relating to Florida to read as follows:

''Florida:
Northern 4
Middle 17
Southern ..... 21'';

(5) by amending the item relating to Hawaii to read as follows:

''Hawaii ..... 4'';

(6) by amending the item relating to Idaho to read as follows:

''Idaho ..... 3'';

(7) by amending the item relating to Kansas to read as follows:

''Kansas ..... 6'';

(8) by amending the item relating to Missouri to read as follows:

''Missouri:
Eastern 7
Western 5
Eastern and Western ..... 2'';

(9) by amending the item relating to Nebraska to read as follows:

''Nebraska ..... 4'';

(10) by amending the item relating to New Mexico to read as follows:

''New Mexico ..... 8'';

(11) by amending the item relating to New York to read as follows:

''New York:
Northern 5
Southern 28
Eastern 18
Western ..... 4'';

(12) by amending the item relating to Oregon to read as follows:

''Oregon ..... 7'';

(13) by amending the item relating to South Carolina to read as follows:

''South Carolina ..... 11'';

(14) by amending the item relating to Utah to read as follows:

''Utah ..... 6'';

(15) by amending the item relating to Virginia to read as follows:

''Virginia:
Eastern 13
Western ..... 4'';

and

(16) by amending the item relating to Washington to read as follows:

''Washington:
Eastern 4
Western ..... 8''.

SEC. 5. ADDITIONAL CIRCUIT JUDGES.

(a) PERMANENT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional circuit judge for the first circuit court of appeals, 2 additional circuit judges for the second circuit court of appeals, 1 additional circuit judge for the sixth circuit court of appeals, and 5 additional circuit judges for the ninth circuit court of appeals.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the ninth circuit court of appeals.

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) NUMBER OF CIRCUIT JUDGES.—The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by amending the item relating to the first circuit to read follows:

''First ..... 7'';

(2) by amending the item relating to the second circuit to read follows:

''Second ..... 15'';

(3) by amending the item relating to the sixth circuit to read as follows:

''Sixth ..... 17'';

and

(4) by amending the item relating to the ninth circuit to read as follows:

''Ninth ..... 33''.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–723. Each amendment may be offered only in the order printed in the report, by a member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–723.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Strike sections 1 through 4 and insert the following:

SECTION 1. NEW DISTRICT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of Alabama, who shall be appointed no earlier than October 1, 2006.

(2) 1 additional district judge for the middle district of Alabama, who shall be appointed no earlier than October 1, 2008.

(3) 3 additional district judges for the district of Arizona, who shall be appointed no earlier than October 1, 2007.

(4) 1 additional district judge for the northern district of California, who shall be appointed no earlier than October 1, 2006.

(5) 3 additional district judges for the eastern district of California, who shall be appointed no earlier than October 1, 2006.

(6) 1 additional district judge for the central district of California, who shall be appointed no earlier than October 1, 2005.

(7) 2 additional district judges for the southern district of California, who shall be appointed no earlier than October 1, 2005.

(8) 2 additional district judges for the middle district of Florida, who shall be appointed no earlier than October 1, 2007.

(9) 4 additional district judges for the southern district of Florida, who shall be appointed no earlier than October 1, 2005.

(10) 1 additional district judge for the district of Idaho, who shall be appointed no earlier than October 1, 2008.

(11) 1 additional district judge for the western district of Missouri, who shall be appointed no earlier than October 1, 2008.

(12) 1 additional district judge for the district of Nebraska, who shall be appointed no earlier than October 1, 2006.

(13) 2 additional district judges for the district of New Mexico, one of whom shall be appointed no earlier than October 1, 2005, and one of whom shall be appointed no earlier than October 1, 2008.

(14) 3 additional district judges for the eastern district of New York, who shall be appointed no earlier than October 1, 2007.

(15) 1 additional district judge for the district of Oregon, who shall be appointed no earlier than October 1, 2010.

(16) 1 additional district judge for the district of South Carolina, who shall be appointed no earlier than October 1, 2008.

(17) 1 additional district judge for the district of Utah, who shall be appointed no earlier than October 1, 2008.

(18) 2 additional district judges for the eastern district of Virginia, who shall be appointed no earlier than October 1, 2006.

(19) 1 additional district judge for the western district of Washington, who shall be appointed no earlier than October 1, 2009.

SEC. 2. CONVERSION OF TEMPORARY TO PERMANENT JUDGESHIPS.

The existing judgeships for the eastern district of California, the district of Hawaii, the district of Kansas, and the eastern district of Missouri, that were authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101–650) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall, as of such date of enactment, hold those offices under section 133 of title 28, United States Code, as amended by this Act.

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of California, who shall be appointed no earlier than October 1, 2010.

(2) 2 additional district judges for the central district of California, who shall be appointed no earlier than October 1, 2010.

(3) 3 additional district judges for the southern district of California, who shall be appointed no earlier than October 1, 2009.

(4) 1 additional district judge for the district of Colorado, who shall be appointed no earlier than October 1, 2009.

(5) 1 additional district judge for the middle district of Florida, who shall be appointed no earlier than October 1, 2010.

(6) 1 additional district judge for the northern district of Illinois, who shall be appointed no earlier than October 1, 2009.

(7) 1 additional district judge for the northern district of Indiana, who shall be appointed no earlier than October 1, 2009.

(8) 1 additional district judge for the southern district of Indiana, who shall be appointed no earlier than October 1, 2010.

(9) 1 additional district judge for the northern district of Iowa, who shall be appointed no earlier than October 1, 2010.

(10) 1 additional district judge for the district of New Mexico, who shall be appointed no earlier than October 1, 2008.

(11) 1 additional district judge for the eastern district of New York, who shall be appointed no earlier than October 1, 2009.

(12) 1 additional district judge for the western district of New York, who shall be appointed no earlier than October 1, 2008.

(b) VACANCIES NOT FILLED.—(1) The first 2 vacancies in the office of district judge in the central district of California, occurring

10 years or more after judges are first confirmed to fill both temporary judgeships created in that district by subsection (a), shall not be filled.

(2) The first 3 vacancies in the office of district judge in the southern district of California, occurring 10 years or more after judges are first confirmed to fill all 3 temporary judgeships created in that district by subsection (a), shall not be filled.

(3) The first vacancy in the office of district judge in each district named in subsection (a), other than the central or southern district of California, occurring 10 years or more after judges are first confirmed to fill the temporary judgeship created in that district by subsection (a), shall not be filled.

SEC. 4. CONFORMING AMENDMENTS.

(a) AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended—

(1) by amending the item relating to Alabama to read as follows:

''Alabama:
Northern 8
Middle 4
Southern ..... 3'';

(2) by amending the item relating to Arizona to read as follows:

''Arizona ..... 15'';

(3) by amending the item relating to California to read as follows:

''California:
Northern 15
Eastern 10
Central 28
Southern ..... 15'';

(4) by amending the item relating to Florida to read as follows:

''Florida:
Northern 4
Middle 17
Southern ..... 21'';

(5) by amending the item relating to Hawaii to read as follows:

''Hawaii ..... 4'';

(6) by amending the item relating to Idaho to read as follows:

''Idaho ..... 3'';

(7) by amending the item relating to Kansas to read as follows:

''Kansas ..... 6'';

(8) by amending the item relating to Missouri to read as follows:

''Missouri:
Eastern 7
Western 6
Eastern and Western ..... 2'';

(9) by amending the item relating to Nebraska to read as follows:

''Nebraska ..... 4'';

(10) by amending the item relating to New Mexico to read as follows:

''New Mexico ..... 8'';

(11) by amending the item relating to New York to read as follows:

''New York:
Northern 5
Southern 28
Eastern 18
Western ..... 4'';

(12) by amending the item relating to Oregon to read as follows:

''Oregon ..... 7'';

(13) by amending the item relating to South Carolina to read as follows:

''South Carolina ..... 11'';

(14) by amending the item relating to Utah to read as follows:

''Utah ..... 6'';

(15) by amending the item relating to Virginia to read as follows:

''Virginia:
Eastern 13
Western ..... 4''; and

(16) by amending the item relating to Washington to read as follows:

''Washington:
Eastern 4
Western ..... 8''.

(b) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to authorize the appointment of any judge on a date earlier than that authorized for that judge under section 1.

The CHAIRMAN. Pursuant to House Resolution 814, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized.

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

Mr. Chairman, I regret that I must offer this amendment to S. 878, but its passage will avoid a problem highlighted by the Congressional Budget Office and its cost estimate for the bill.

Budget rules require us to stay within a 1-year and 5-year budget authority score for direct spending. The bill as reported by the Committee on the Judiciary comports with the 1-year spending threshold imposed by the budget rule. Unfortunately, however, the 5-year score exceeds the corresponding threshold by roughly $5.5 million.

To cure this defect, I was faced with choosing either deleting meritorious circuit and district judgeships from the bill or retaining all of the judgeships while staggering their implementation over a longer period of time. I have chosen the latter option as the better of the two, and this amendment reflects that.

While some judicial districts will have to wait longer for additional judges under this plan, at least those judges will have been authorized for the relatively near future.

□ 1145

Assuming S. 878 is enacted, it will also be possible for a future Congress, perhaps the 109th, to provide the additional funding necessary to change the statute and accelerate the implementation dates for those judgeships that cannot be created prior to fiscal year 2005.

That said, my amendment would implement 11 circuit judgeships and convert the four temporary district judgeships to permanent seats in fiscal year 2005. Existing temporary seats do not score at all, and the related costs of the 11 circuit judgeships easily comply with the first-year threshold requirement.

For the next 5 fiscal years, through fiscal year 2010, the figure staggers the implementation of the remaining district judgeships at the rate of eight per year. In other words, eight new district judgeships are added in fiscal 2006, eight more in fiscal 2007, and so on through 2010. In the last year, fiscal year 2011, the remaining seven district judgeships are officially authorized.

I am sure that each of us could develop a different priority list detailing which judgeships would be implemented in a given fiscal year. I have tried to be fair by arranging the list based on need as defined by the Judicial Conference criteria.

We have received an informal assurance from CBO that this amendment will lower the 5-year budget authority estimate for direct spending below the $34.5 million requirement imposed on the Committee on the Judiciary. My staff has also worked closely with the Committee on the Budget on this matter, and I understand this amendment will satisfy their concerns. I appreciate their contributions to this effort.

In conclusion, I urge the Members to adopt this amendment, a necessary change that will bring us closer to authorizing the first omnibus judgeship bill since 1990.

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

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman and I support the gentleman's amendment, but I am curious why an amendment that is being offered in order to avoid a Budget Act problem requires a waiver of the Budget Act.

Mr. SENSENBRENNER. Reclaiming my time, I do not know.

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

The CHAIRMAN. Does anyone claim time in opposition?

Mr. BERMAN. Mr. Chairman, I stand up in opposition simply to state my support for the gentleman's amendment and urge its adoption.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–723.

AMENDMENT NO. 2 OFFERED BY MR. SIMPSON

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SIMPSON:

Insert after section 5 the following new section:

SEC. 6. NINTH CIRCUIT REORGANIZATION.

(a) SHORT TITLE.—This section may be cited as the ''Ninth Circuit Judgeship and Reorganization Act of 2004''.

(b) DEFINITIONS.—In this section:

(1) FORMER NINTH CIRCUIT.—The term ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this section.

(2) NEW NINTH CIRCUIT.—The term ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by subsection (c)(2)(A).

(3) TWELFTH CIRCUIT.—The term ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by subsection (c)(2)(B).

(4) THIRTEENTH CIRCUIT.—The term ''thirteenth circuit'' means the thirteenth judicial circuit of the United States established by the amendment made by subsection (c)(2)(B).

(c) NUMBER AND COMPOSITION OF CIRCUITS.—Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking ''thirteen'' and inserting ''fifteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... California, Guam, Hawaii, Northern Marianas Islands.'';

and

(B) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... Arizona, Nevada, Idaho, Montana.
''Thirteenth ..... Alaska, Oregon, Washington.''.

(d) PLACES OF CIRCUIT COURT.—The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... San Francisco, Los Angeles.'';

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... Las Vegas, Phoenix.
''Thirteen ..... Portland, Seattle.

(e) ASSIGNMENT OF CIRCUIT JUDGES.—Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this section—

(1) is in California, Guam, Hawaii, or the Northern Marianas Islands shall be a circuit judge of the new ninth circuit as of such effective date;

(2) is in Arizona, Nevada, Idaho, or Montana shall be a circuit judge of the twelfth circuit as of such effective date; and

(3) is in Alaska, Oregon, or Washington shall be a circuit judge of the thirteenth circuit as of such effective date.

(f) ELECTION OF ASSIGNMENT BY SENIOR JUDGES.—Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this section may elect to be assigned to the new ninth circuit, the twelfth circuit, or the thirteenth circuit as of such effective date, and shall notify the Director of the Administrative Office of the United States Courts of such election.

(g) SENIORITY OF JUDGES.—The seniority of each judge—

(1) who is assigned under subsection (e), or

(2) who elects to be assigned under subsection (f),

shall run from the date of commission of such judge as a judge of the former ninth circuit.

(h) APPLICATION TO CASES.—The following apply to any case in which, on the day before the effective date of this section, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this section had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this section been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this section, or submitted before the effective date of this section and decided on or after such effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this section had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this section had not been enacted.

(i) TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.—Section 291 of title 28, United States Code, is amended by adding at the end the following:

''(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit or the Thirteenth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit or Thirteenth Circuit.

''(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit or Thirteenth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit or Thirteenth Circuit.

''(e) The chief judge of the Thirteenth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit or the Twelfth Circuit, designate and assign temporarily any circuit judge of the Thirteenth Circuit to act as circuit judge in the Ninth Circuit or Twelfth Circuit.''.

(j) TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.—Section 292 of title 28, United States Code, is amended by adding at the end the following:

''(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

''(1) upon request by the chief judge of the Twelfth Circuit or Thirteenth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit or Thirteenth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit or Thirteenth Circuit.

''(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

''(1) upon request by the chief judge of the Ninth Circuit or Thirteenth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit or Thirteenth Circuit, or a division thereof whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit or Thirteenth Circuit.

''(h) The chief judge of the United States Court of Appeals for the Thirteenth Circuit may in the public interest—

''(1) upon request by the chief judge of the Ninth Circuit or Twelfth Circuit, designate and assign 1 or more district judges within the Thirteenth Circuit to sit upon the Court of Appeals of the Ninth Circuit or Twelfth Circuit, or a division thereof whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Thirteenth Circuit to hold a district court in any district within the Ninth Circuit or Twelfth Circuit.

''(i) Any designations or assignments under subsection (f), (g), or (h) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.''.

(k) ADMINISTRATIVE COORDINATION.—Section 332 of title 28, United States Code, is amended by adding at the end the following:

''(i) Any 2 contiguous circuits among the Ninth Circuit, Twelfth Circuit, and Thirteenth Circuit may jointly carry out such administrative functions and activities as the judicial councils of the 2 circuits determine may benefit from coordination or consolidation.''.

(l) ADMINISTRATION.—The court of appeals for the ninth circuit as constituted on the day before the effective date of this section may take such administrative action as may be required to carry out this section and the amendments made by this section. Such court shall cease to exist for administrative purposes 2 years after the date of the enactment of this Act.

Page 8, line 8, strike the period at the end and insert '', whose official duty station shall be in California.''.

(Page 8, line 13, strike the period at the end and insert '', whose official duty station shall be in California.''.

Strike subsection (c) of section 3.

Insert after section 6 the following:

SEC. 7. NUMBER OF CIRCUIT JUDGES

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by amending the item relating to the first circuit to read follows:

''First ..... 7'';

(2) by amending the item relating to the second circuit to read follows:

''Second ..... 15'';

(3) by amending the item relating to the sixth circuit to read as follows:

''Sixth ..... 17'';

and

(4) by amending the item relating to the ninth circuit to read as follows:

''Ninth ..... 19''.

(5) by inserting after the item relating to the eleventh circuit the following:

''Twelfth 8
''Thirteenth ..... 6''.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SECTION 6.—Section 6 and the amendments made by section 6 shall take effect on the first October 1 that occurs on or after 9 months after the date on which all 5 judges authorized to be appointed to the ninth circuit court of appeals under section 5(a), and both judges authorized to be appointed under section 5(b), have been appointed, by and with the advice and consent of the Senate.

The CHAIRMAN. Pursuant to House Resolution 814, the gentleman from Idaho (Mr. SIMPSON) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, I yield myself such time as I may consume, and I thank the Committee on Rules for making this amendment in order.

Mr. Chairman, this amendment would split the Ninth Circuit Court of Appeals and, as has already been stated on this floor, there is some controversy surrounding it. This is an issue that has been discussed for several years, both in the States that are affected by the Ninth Circuit and when I was in the State legislature, I served on the Judiciary and Rules Committee, and we discussed this many times and looked at the Ninth Circuit and the potential need for splitting the Ninth Circuit.

Let me state at the outset of this, it is inevitable that the Ninth Circuit will be split. At some point in time, whether it is with this bill or some other bill in the future, the need to split the Ninth Circuit is undeniable. At some point in time, the growth is such that it is growing so rapidly that we will have to split this court.

What are the factors that we should look at that should determine when it is time to split this court? I agree with the White Commission and the statements made by the gentleman from California earlier. Looking at the decisions of a judge, there is no reason to split the court. Whether one agrees or disagrees with those decisions, that is not the reason to split a court.

The reason to split a court is for administrative purposes, and in the past there has been much debate about the liberal decisions of the Ninth Circuit and so forth; and people have wanted to get out of the Ninth Circuit for that reason. That is not my intention. My intention is because of the administration of the Ninth Circuit.

Look at these facts. The Ninth Circuit has 48 judges, a figure that is approaching twice the number of total judges as the next largest circuit. It is twice as big as the next largest circuit in terms of judges, and the Ninth Circuit represents 56 million people, roughly one-fifth of the population of the U.S. This is 5 million more people than the next largest circuit. The Ninth Circuit encompasses nearly 40 percent of the geographic area of the United States. It runs essentially from the equator to the North Pole and from the corners of Montana to Guam. It is an enormous surface area.

The Ninth Circuit also has the most number of appeals filed and the highest percentage of increases in appeals filed, the most number of appeals still pending and the longest median time until disposition of those appeals.

To address this problem, this amendment creates a new Ninth Circuit featuring California, Guam, Hawaii and the Northern Marianas Islands; a new 12th Circuit, featuring Arizona, Nevada, Idaho, and Montana; and a new 13th, featuring Alaska, Oregon, and Washington.

This legislation also allows the President to appoint five new judges to permanent Ninth Circuit seats, along with two other judges who will temporarily fill seats. These additions are consistent with requests made by the Judicial Conference and will ensure that future caseload demands made on the new Ninth Circuit will more closely mirror its new judgeship resources. The amendment further ensures that the duty stations of these judges will be California, where the demand for more judges is highest.

The creation of more judgeships in the absence of additional reform will not improve the administration of justice in the United States. This is an instance in which bigger does not mean better. We must distribute judgeships with an eye toward achieving structural coherence within each circuit. This amendment accomplishes that.

For just a minute, Mr. Chairman, let me address some of the arguments that have already been made and will be made against this bill:

First, that we are doing it just because we do not like the decisions of the Ninth Circuit. While that may have been the case in the past and some of the tactics that has been talked about in the past when this issue has been discussed, certainly that has been one of the premier points of view that some people have raised, that is not the reason to do it. I agree with the White Commission.

Second, the cost. The cost, as has been stated here, is somewhat exaggerated, and the reason for that is that it took into consideration the addition of five new additional judges and two temporary judges. Those judges will be appointed whether or not this amendment is adopted because they are in the underlying bill. So the cost of this amendment is substantially overstated by the opponents of this legislation.

Third, we have talked about Governor Schwarzenegger of California not supporting this and that we should follow our fellow Republican Governor. I can tell my colleagues that there are Republican Governors that do support this that are affected in the Ninth Circuit. The California Governor is not the only Governor in the Ninth Circuit.

The fourth is judges do not want this, that there was a vote taken and it was 30 to nine of the judges of the Ninth Circuit that did not want this split to occur. Let me tell my colleagues how that occurred. That was a straw poll that was taken of the judges. The chief justice of the Ninth Circuit knew exactly how each of those judges voted. It was not a vote in secret, and each one of those judges knew that the chief justice of the Ninth Circuit is adamantly opposed to this split. Did that influence the vote? I do not know, but I can tell my colleagues that of the nine that voted to support the split, they are registered as the nine. Of the 30 that opposed the split, some of them opposed it, some of them were undecided, and they were counted as opposing the split. So to say that it was 30 to nine, I think, is an exaggeration of the case.

The fact is we have to look at the facts that I stated here. Is it time to split this court? I think it is undeniable that it is time. Justice in the Ninth Circuit is different than it is in every other circuit in this country. We do things differently in the Ninth Circuit because it is so large.

In every other circuit, when there is an appeal of the three-judge decision en banc to the full court, all the judges of that circuit sit and listen to the case, even those on the three-judge panel, so that they can have their points of view inserted into that discussion of the case. In the Ninth Circuit, that is not the case. It is so large that they pull names out of a hat, and 10 members and the chief sit en banc. One may or may not be chosen for it. Individuals that sat on the three-judge panel and listened to it may not even be on the en banc panel; and consequently they cannot have their views inserted as to why they decided the way they did as a three-judge panel.

So justice is different in the Ninth Circuit. I think it should be uniform. I think the size of the judiciary in the various circuits should be more closely related than they currently are with the Ninth Circuit; and, consequently, I hope my colleagues will support this amendment, and we will finally do what we have discussed for many years, that is, split the Ninth Circuit, make justice in the West just as it is in the rest of the country.

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

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

Mr. Chairman, I rise to express my strong opposition to the amendment offered by the gentleman from Idaho. This amendment has never been marked up in the Committee on the Judiciary. It comes out of right field, left field, whatever field. It has never been considered by the committee with jurisdiction over the Federal courts. In fact, the only process it received was a subcommittee hearing last year where the witnesses were split about its advisability.

Let me talk about some of the reasons why I think this body should reject this amendment.

The costs of implementing a three-way split of the Ninth Circuit are enormous and could not come at a worst time. The Administrative Office of U.S. Courts estimates start-up costs in excess of $131 million, incurring additional annual costs of over $20 million each year as a result of this split. The courts will be forced to incur these costs when they are in the midst of a budget crisis.

The Federal courts have already engaged in one round of staff cutbacks. Late last month, the administrative office announced a 2-year moratorium on 42 Federal courthouse construction projects as a result of the hard freeze on the judiciary budget. The administrative office has indicated that it may need to start cutting more staff if the budget situation remains the same.

The Ninth Circuit judges themselves are overwhelmingly opposed to splitting the circuit. In April of this year, Ninth Circuit judges voted 30 to nine

against division of the circuit. In light of this overwhelming opposition from the affected judges, a split of the Ninth Circuit would constitute an unprecedented interference with the judicial system. Congress has never split a circuit over the objections of the affected judges.

If the opposition of the judges themselves does not carry water, perhaps a long bipartisan list of other opponents will be more persuasive. California Governor Schwarzenegger, as the gentleman has acknowledged, wrote in April of 2004 expressing his strong opposition to this proposal. The American Bar Association, the California Academy of Appellate Lawyers, a group of prominent Republican and Democratic lawyers and a number of county and State bar associations all oppose this split.

Split proponents have the burden of proving the advisability of a split; and in my mind, it is a heavy burden. They both must prove that the current Ninth Circuit does not efficiently and effectively serve the interests of justice and that a split would solve more problems than it would create.

To date, the empirical evidence in support of this split is lacking. In fact, for each reason offered as a justification to split the Ninth Circuit, there is a compelling response that justifies an opposite conclusion.

Some split proponents tout the common misperception that the Supreme Court reverses the Ninth Circuit an inordinate amount of the times. Based on this perception, they claim the Ninth Circuit is either out of touch with the rest of the country or issues an unusual number of bad decisions. The evidence does not support this assertion and, in fact, may lead to the opposite conclusion.

For the past 3 years, the reversal rate of the Ninth Circuit by the U.S. Supreme Court has compared favorably with other circuits; but even if we did not like the Ninth Circuit decisions, the gentleman's amendment does not propose shooting the justices. These judges will still be sitting on circuit courts. So it does not even achieve the goal that many of its proponents, if not the gentleman himself, seek to obtain with this amendment.

There was a reason why the leadership of the majority party decided to open up this bill for this nongermane amendment and no other nongermane amendments, and I would suggest it had nothing to do with judicial efficiency or effectiveness. It had to do with politics.

□ 1200

It has been noted that due to the Ninth Circuit's size, panels rarely involve the same three judges. Proponents of the split argue that the shifting nature of panels leads to inconsistent opinions. However, it can be said that the shifting nature of panels contributes to the objectivity of decision-making and makes it difficult for any one bias or philosophy to predominate. Less charitably, it could be said that the very consistency of Ninth Circuit opinions, not their inconsistency, is what split advocates find objectionable.

Split proponents note that the Ninth Circuit has almost twice as many judges as the next largest Federal circuit, serves the largest population and deals with the largest number of appeals. Split proponents cite these numbers to support the contention that the Ninth Circuit is overburdened and is simply too huge to operate efficiently. However, statistics belie those contentions. They support the opposite conclusion.

These statistics show that in recent years the Ninth Circuit handled over 207 appeals per circuit judge. When compared to other circuits, these numbers put Ninth Circuit judges in the middle of the pack with regard to the number of appeals they handle annually. Ninth Circuit judges may not be the most efficient, but they are certainly not among the least.

I am sure we will also hear a bit today about the length of time, in fact, we have heard that it takes the Ninth Circuit takes to decide individual cases. The truth is that the Ninth Circuit judges are remarkably quick at deciding cases following argument or submission. It takes the Ninth Circuit 1.4 months to file a decision following arguments, as opposed to the national average of 2.1 months. For submitted cases, it takes one-half month nationally compared with two-tenths of a month in the Ninth Circuit.

Those who raise concerns about delays in case dispositions also offer no such evidence that delays are due to circuit size. In fact, vacant judgeships constitute a more likely explanation for any delays in overall case disposition. Proof for this conclusion can be drawn from the experience of the much smaller Sixth Circuit, which has a large percentage of judicial vacancies and the longest time, in excess of the Ninth Circuit by far, in case disposition among circuits. If delays in case disposition were the keystone for splitting circuits, we would start with the Sixth.

Finally, and least credibly, some split advocates accuse the Ninth Circuit of being unduly activist. These folks believe a split would somehow curb this alleged tendency, or at least inoculate the carved-out 12th and 13th from the decisions of the old Ninth Circuit.

I reject judicial activism as a sound rationale for splitting the circuits, or for any other congressional action against the courts. If judicial activism were valid grounds for restructuring the courts, we would have to reconstitute the current U.S. Supreme Court, which has displayed its own judicial activism in crafting its doctrine of State sovereign immunity. Because judicial activism exists in the eye of the beholder, it cannot be a sound basis for restructuring courts.

In conclusion, we must ask ourselves whether the cure presented by this amendment would be worse than the supposed disease. The disruptions, costs, and uncertainty that would attend a split might turn it into a costly failure. Frankly, the best way for Congress to participate constructively in improving the Ninth Circuit would be to pass S. 878 without this amendment. The additional district and circuit judgeships this bill creates within the Ninth Circuit will help it get an even better handle on its caseload.

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

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

If you were to follow the arguments of the gentleman from California, maybe we should be combining the smaller circuits into larger circuits, if cost is the issue.

And it is the other side talking about judicial activism, not this side. We are talking because of administrative purposes.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the full committee.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Idaho. And I know that an underlying argument on both sides of the aisle is whether one likes or dislikes the controversial decisions the Ninth Circuit has rendered from time to time. I would hope that we would disregard that and look at the statistics, that the Ninth Circuit has become unwieldy.

I agree with the gentleman from Idaho that the Ninth Circuit is going to get split sooner or later. I believe that he has an amendment to accomplish this split in the best manner possible.

Now, let us look at why the Ninth Circuit needs to be split. First, it has 48 judges already serving, seven more are created in this bill, and that is a figure that approaches twice the number of total judges in the next largest circuit.

Second, the population of the territory within the Ninth Circuit is 56 million people, and that is roughly one-fifth of the Nation's population, and 25 million more than the population of the next largest circuit. The Ninth Circuit comprises nearly 40 percent of the geographic area of the United States. So that means, to come to get your appeal heard, one, in many instances, has to travel much farther, to San Francisco, than litigants in the other circuits to get to where those circuits sit.

The Ninth Circuit has the most number of appeals filed and the highest percentage increase in number of appeals filed, the most number of appeals still pending, and the longest median time until disposition.

Now, having said all of these statistics, why should we delay in dealing with the split of the Ninth Circuit? There are some who have proposed only

one additional circuit be created, whether it includes all the States outside of California, Hawaii, Guam, and the northern Mariana Islands or whether the circuit should be divided into three pieces.

I think that what the gentleman from Idaho has done in dividing the Ninth Circuit into three, a new Ninth Circuit, a new 12th Circuit and a new 13th Circuit will make for the most efficient administration of justice.

I grant the point that most of the appeals arise from California, and that is why the gentleman's amendment has all seven of the new judges, five permanent and two temporary, sit with the newly reconstituted Ninth Circuit in the State of California. This is an idea whose time has come. If we delay adopting this amendment, we are just going to have more administrative problems caused by higher caseloads, so we might as well do it now; and I would urge the committee to support the amendment.

Mr. BERMAN. Mr. Chairman, may I get a sense of how much time each side has?

The CHAIRMAN. The gentleman from California has 12 minutes remaining.

Mr. BERMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, first, there were the court-stripping amendments, now there are the court-splitting amendments. What will come next, the court-flogging amendments?

Why is this being sought? Well, it is argued that the amendment to split the courts, to split the circuit, is an amendment out of the necessity of improving the timeliness of the actions within the Ninth Circuit. Critics have purportedly claimed the Ninth Circuit is too big and prevents litigants from receiving timely legal redress.

In the period since 1984, when the court was last authorized new judgeships, there has been significant growth of the court's caseload. It has more than doubled. But interestingly enough, both the Fifth and the 11th Circuits have experienced similar increases in caseload growth; however, no divisions of those circuits have been contemplate or proposed.

So why is it only the Ninth Circuit? In fact, the Ninth Circuit terminated more than 10,000 cases in calendar year 2002, and has increased its efficiency year after year due to the continuing examination of case processing procedures and constant innovation. This has been accomplished despite unfilled vacancies. If the Congress and those that offer this amendment were truly concerned with timeliness, we would have filled those vacancies a long time ago.

So then what is the basis of this court-splitting, circuit-splitting amendment? Perhaps this is being sought because of an outcry of the judges within the Ninth Circuit and the members of the bench within the Ninth Circuit that they feel this has to be done, that it would improve the efficiency of the courts. But that cannot be it either, because the overwhelming opinion of the judges and the attorneys in the Ninth Circuit, as well as the statements of others concerned with this issue, having submitted written statements or given oral testimony before the commission, cut the other way.

Among those opposing the division of the Ninth Circuit were 20 out of 25 persons testifying at the Seattle hearing of the commission opposed to the split, 37 out of 38 persons testifying at the San Francisco hearing opposed to the split, and the governors of California, Washington, Oregon, and Nevada, the American Bar Association, and the Federal Bar Association all opposed the split. Plainly, this is not on outcry from those most immediately affected.

Well, it is argued that the need for consistency requires the split. But, again, the White Commission concluded, neither do we see a need to split the Ninth Circuit in order to solve problems having to do with consistency, predictability, and coherence of circuit law; there is no recognizable evidence of such a conflict. Indeed, the Circuit's use of its en bloc review process is designed to resolve and has effectively resolved precisely such conflicts.

In sum, Mr. Chairman, when they say it is about efficiency, when they say it is about consistency, and when they say it is about timeliness, it is about ideology. And as the White Commission stated, there is unanimous agreement that ideology should never be the ideology to split a circuit.

Mr. SIMPSON. Mr. Chairman, I yield 2½ minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Chairman, I thank the gentleman from Idaho for yielding me this time, and for his hard work and, in particular, his insight on this amendment; and I support the gentleman in looking forward to splitting up the Ninth Circuit Court, which I think is long overdue.

I find the legislation to be a real positive step in that it also incorporates the language that we worked on which removes Arizona from the Ninth Circuit Court. I find it to be forward looking. It acknowledges the simple fact the nine States that now compromise the Ninth Circuit Court continue to experience phenomenal growth rates.

Throughout the Southwest, we are seeing more and more homes being built, more and more people moving into the Southwest. Our population rates are exploding. The Ninth Circuit, as it exists today, is simply too big to quickly and effectively administer justice. It takes over a year to get even a case to be heard in the Ninth Circuit. For this reason alone, we need to look at splitting it up to better serve the needs of the citizens of the western United States.

The new circuit map proposed by the gentleman from Idaho (Mr. SIMPSON) addresses current population trends and alleviates caseload backlogs. The Ninth Circuit Court's current jurisdiction encompasses nine States and, again, almost 56 million people, roughly 19 percent of the U.S. population in what, again, is the fastest growing region of America.

Explosive population growth in the Ninth Circuit Court has outpaced the court's ability to administer justice in an efficient manner and the caseload is simply too big to administer efficiently.

The opposition claims the court is efficient, but I cite this example. In 2002, the Ninth Circuit Court had more cases pending for more than a year than all other circuit courts combined. In addition, the circuit court is too big for judges to track the opinion of other judges, which results in inconsistencies and unfairness in the judicial process. For example, two different three-judge panels on the same day issued different legal standards to resolve the same issue. How are district judges supposed to even know which standards, which holdings, to follow when such confusion, when such a lack of consistency exists on the bench?

I urge my colleagues to support this amendment to release us from the Ninth Circuit Court. They forgot to find the simplicity, they forgot to find the clarity you need in seeking the truth, those who continue to legislate from the bench, who now fight to struggle and protect the empire they have built to themselves.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Now the mask comes off. The last line of the gentleman: They are legislating from the bench; we do not like their decisions.

Believe me, my colleagues, the original proponents of this split and many of its supporters are doing this not based on judicial efficiency, but on ideology. If you want to deal with rising population, you authorize new judgeships.

The major reason in any of the variables where the Ninth Circuit has lagged is because we have not filled the vacancies that were already authorized. You can have one circuit, you can have three circuits, you can have 10 circuits, but if you do not keep up with the growing litigation requirements by authorizing and filling those judgeships, you will have greater delays. It is a very simple equation.

□ 1215

Mr. Chairman, I yield 3½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member for yielding me this time, and I regretfully rise to vigorously oppose the distinguished gentleman from Idaho's amendment. I consider this similar to court stripping,

and that is the legislation that we have had over the past couple of weeks dealing with court stripping and taking away rights from the courts for reasons that are inexplicable.

Let me just cite for my colleagues a reason that has been argued by the proponent of this amendment, that the Ninth Circuit is too big, that there are too many delays. But let me just say that, in making that criticism, you might be interested in knowing that, last year, the average length of turnaround for cases before the Ninth Circuit was a month less than the average case lasted in 2002. Further, the Ninth Circuit's average turnaround time has improved 16 percent relative to the national average since 1997.

So the question would be, why would you, in complete rejection of the Governor of the State of California and the former Governor, try to restructure these courts? First of all, in a time when we are tightening our belts, when we would not even allow a simple amendment that would raise the salaries of the Federal judges to about $185,000, far less than a first associate in some of our major law firms, why would you not allow that amendment but you would in fact spend more dollars to redesign these courts?

The cost is going to be enormous. With an estimated start-up cost of about $131 million and an estimated annual recurring cost of about $22 million, this is a costly expenditure when we do not really have the dollars to do so. I would much rather spend dollars on making sure we have enough Federal judges, district judges, so that all of the petitioners and defendants can get a fair hearing in our courts.

The other thing is geography. The Ninth Circuit includes California. Although there are nine States in the Ninth Circuit, more than two-thirds of the workload of appeals is from California. There is no way to evenly divide the circuit into multiple circuits of roughly proportionate size without dividing California. The consistency of the decisions, the fairness of the decisions and the openness of the court gets undermined.

The other is, of course, history. Over the course of the extremely colorful history of the West, certain ties have developed that should be respected in circuit alignment in order to provide for continuity and stability. Arizona, for example, may at one time have seen itself as a Rocky Mountain State, but the truth today is that its economic and cultural ties are overwhelmingly closer to California. History plays a large part in it. Dividing the court simply takes away and makes the lives of judges more difficult. But the important point is that the circuits have reflected the balance of America, the fairness of America.

I live in the 5th and 11th Circuits, and I might say, I vigorously disagree with them on their civil rights decisions. They make the absolute wrong decisions, but they are the circuit courts. Even if you disagree with the Ninth Circuit, you cannot come here and cut them up and tear them up because you disagree with their philosophy, their legal decisions, the rendering of justice. We have to be better than that in America, and I would rise to oppose this amendment.

Today I rise in strong opposition to the amendment being offered by Representative SIMPSON which would divide the current Ninth Circuit to create three new Circuits.

I believe it is important at the outset that we understand at least three important points:

The first goes to cost. It is important to remember that we are not just talking about splitting up the judges of the existing Court of Appeals into separate courts of appeals. We are actually talking about dividing the entire and well integrated administrative structure of the Ninth Circuit to create three separate and largely duplicative administrative structures. With an estimated start-up cost of about $131 million, and an estimated annual recurring cost of about $22 million, this is both costly and wasteful. This is especially true when we face a budget crisis requiring us to lay off employees performing critical functions such as the supervision of probationers and preparation of sentencing reports.

The second point goes to geography. The Ninth Circuit includes California. Although there are nine states in the Ninth Circuit, more than two-thirds of the workload of the court of appeals is from California. There is no way to divide the circuit into multiple circuits of roughly proportionate size without dividing California. While I can understand why some might want to have a federal circuit court of appeal that was dominated by individuals from their State, today we are being asked to play politics with judicial geography and this is absolutely unacceptable in our democratic society.

Some of the proponents of this bill have argued that smaller, rural States are disadvantaged by being lumped into a circuit that contains a State the size of California with a substantial urban population base. But surely, they would not argue that Vermont and New Hampshire should be granted their emancipation from the larger, more urban States in the Second and First Circuits. Our federal bench should not be manipulated simply to make each circuit homogeneous.

The third point goes to history. Over the course of the extremely colorful history of the west, certain ties have developed that should be respected in circuit alignment in order to provide for continuity and stability. Arizona, for example, may at one time have seen itself as a rocky mountain state, but the truth today is that its economic and cultural ties are overwhelmingly closer to California than to Colorado or Wyoming. Another example is California and Nevada. Their bond is so great that they have joined ion a compact to protect Lake Tahoe. Moreover, Idaho and eastern Washington have essentially treated their district judges as interchangeable for years. The division proposed in this amendment to S. 878 would server all these ties by dividing Arizona from California, California from Nevada and Idaho from Washington.

Proponents of this split have long criticized the Ninth Circuit for its size and caseload. They might be interested to note that last year the average length of turnaround for cases before the Ninth Circuit was a month less than the average case lasted in 2002. Further, the Ninth Circuit's average turnaround time has improved 16 percent relative to the national average since 1997.

Dividing a Circuit should not take place simply to make the lives of judges or lawyers easier or cozier to reduce travel burdens. It should only take place when there is demonstrated proof that a circuit is not operating effectively and there is a consensus among the bench, the bar, and the public that they serve, that division is the appropriate remedy. Moreover, I do not see any persuasive evidence that would suggest that the Ninth Circuit is not operating effectively.

What I do not understand is why these repeated efforts to split the Ninth Circuit are pursued despite bi-partisan opposition ranging from Gov. Arnold Schwarzenegger (R–CA) to the overwhelming majority of Ninth Circuit judges, including the current Chief Judge, and Senior Judge Clifford Wallace, a former Chief Judge who was nominated by a Republican President. This irresponsible amendment would effectively take an otherwise non-controversial bill and turn it into a controversy. Whatever happened to that old adage, "if it ain't broke, don't fix it?"

I urge my colleagues to vote "no" on the Simpson amendment to S. 878.

Mr. SIMPSON. Mr. Chairman, I yield myself 30 seconds. While I appreciate the facts from the gentleman from California's comments, the reality is that some people, as I stated in my opening statement, support this because they do not like the decisions of the Ninth Circuit. That is a reality. But as the chairman stated and I stated, that is not the reason to do it. Look at the facts. Do not vote on it based on ideology.

I would also state that it is interesting that, from that side of the aisle, there are people who do not want to split it because they do like the decisions of the Ninth Circuit, and so they want them to apply to the entire West. For the same reason that some Members on my side want it split, some people on their side do not want it split.

Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I thank the gentleman from Idaho for taking on this issue which is something that Montana has been calling for since the early eighties. When we finally got an appointment to the Ninth Circuit, we threw a party. We had not had one since the Kennedy era.

It is not about economic ties. I am not going to make the argument that I do not like the decisions that they make. In fact, I do not have to make the argument. The U.S. Supreme Court made the argument when they overturned 24 or 25 other cases. But there is a precedent within the United States for reapportioning the work, and it is called the United States Congress. It is no surprise that the judges do not like it. Who less likes reapportionment than United States Congressmen? We are the ones who complain the most, except in my case; I represent the

whole State, so I cannot complain. But the State of California would love nothing more than to create the Supreme Court West. Back in the eighties when we tried to get it, all the appointments were going to California. We had a problem with our President at the time. We tried to make the argument.

Economic ties. If you want to make the argument about economic ties, what social and economic ties does Montana have to California other than the fact they are coming up and buying our property? The biggest problems that we have within the State of Montana are Federal problems that need to be addressed as locally as possible. I give great credit to Justice Sid Thomas who has now brought people to Montana to hear these cases. Why? Because he recognized as a matter of fairness that Montana deserved every bit as much of a right to have those cases heard in Montana as it did in California.

It makes logical sense to divide up the court. It makes logical sense. In the executive branch, when the populations shift, usually the needs shift. What do we do with the bureaucracy? And I do not mean that in the negative term. The bureaucracy usually moves to where the issue or the problem is existing. In the judiciary, it does not seem to do that.

Why do the lawyers vote overwhelmingly not to split it? They are not stupid. They are not going to go against a judge that may someday judge against their case. They are covering their rear ends. So it makes logical sense. Montana has been asking for it. Now is the time. I thank the gentleman from Idaho for sponsoring this legislation.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Perhaps the most eloquent and forceful argument against the amendment being proposed and the split being proposed by the gentleman from Idaho came from the former chief judge of the Ninth Circuit, a Montana justice, Judge Browning, who felt very strongly that the interests of justice were not served by this particular split.

As I listened to the proponents of this amendment talk, the judges do not want it. The lawyers do not want it. They are not talking the merits. They are scared of the judges. We hear no clamor from the litigants about a split of the circuit. We hear no argument that there is some compelling public ground swell for this split. Some of my colleagues do not like this, and they want to ascribe motivations to people who disagree with them. They are afraid of the judges. They assume the judges are not going to act on what is in their interests. They are not going to lose their judgeships over this split. They believe justice is not served by this split.

I urge opposition to this amendment.

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

Mr. SIMPSON. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, I rise today in support of this amendment. The Ninth Circuit represents 56 million people, or roughly one-fifth of our Nation's population. This is 25 million more people than the next largest circuit; 56 million people in one circuit. It encompasses 40 percent of the geographic area of the United States. Traveling across this much land mass wastes both time and money.

The Ninth Circuit also has the most number of appeals filed and the highest percentage increase in appeals filed, the most number of appeals still pending, and the longest median time until disposition. This is an overworked, overstretched court.

In addition, since the size of the circuit inhibits greater en banc participation by the entire circuit, the Ninth has adopted a practice that allows it to sit en banc with only 11 judges. This means the plurality of those 11, six judges, can effectively determine the case law for the circuit and the remaining 20 judges who serve. All of this leads to inconsistency in case law development and uncertainty among litigants. The outcome of cases in the Ninth are frequently determined more by the composition of a given three-judge panel, not by the law of the circuit as it has evolved. This is detrimental to the law-declaring role, one of a circuit's two primary functions, the other being to correct errors on appeal.

Mr. Chairman, I commend the gentleman from Idaho who has worked tenaciously on this issue to try and bring about fairness in the distribution of the workload in the Ninth Circuit and to bring about fairness in terms of where these cases are heard. We heard from the gentleman from Montana about the need at least to have a judge come there and hear a case once in a while. I think the gentleman from California, if I heard right from the gentleman from Montana, the judge he cited moved to California in 1960 and never held a hearing in Montana. In effect, he became a Californian.

Mr. Chairman, I support this amendment.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

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

Mr. Chairman, I just wanted to compliment my colleague on the other side for his comments about the Ninth Circuit judges being overworked and being overstretched. It is really gratifying to hear all the concern for the workload of the judges in the Ninth Circuit. That concern, I think, would carry more weight with the opposition to this bill if it were reflected historically in a desire to fill the vacancies for those overworked and overstretched judges. If there had been, I think, a stronger pattern of support for that, for dealing with the burden on the caseload in the Ninth Circuit, then there would be less inclination to think this is all about ideology. But when the gentleman goes on to say that part of this is also due to his dislike of the outcome of cases determined by the composition of these three-judge panels rather than law precedent, we get, once again, back to ideology rather than a concern over caseload or workload.

Again, for those reasons, the White Commission and the courts have historically and unanimously opposed circuit splitting over matters of ideology.

Mr. SIMPSON. Mr. Chairman, I yield 1½ minutes to the gentleman from Idaho (Mr. OTTER).

(Mr. OTTER asked and was given permission to revise and extend his remarks.)

Mr. OTTER. I thank my colleague and my good friend from Idaho for yielding me this time.

Mr. Chairman, I had quite a few prepared remarks, but most all of the information that I was going to impart to this body has already been said time and time again about the overload of the courts; the workforce themselves; how many additional judges have been added; and the fact that we almost have twice as many judges now in the Ninth Circuit as there are in the next closest circuit; the geographic size and obviously the population all present tremendous problems for those of us in the Ninth Circuit.

It was said earlier that, when Congress does not like something, and especially we have been investing and assigning all manner of responsibility and all manner of attitude to why we want to divide up the Ninth Circuit, I would remind the gentleman from California and the gentlewoman from Texas that, if you read article III of the Constitution, it says very clearly that the judicial system shall be invested in the Supreme Court and such other inferior courts as Congress may from time to time deem necessary. So these courts are indeed a creature of this Congress, and so then it falls to our responsibility, I think, as the gentleman from Montana clearly pointed out, that when we need to reapportion because of size and because of geography that is involved and the amount of people that are involved, it is necessary for this Congress to take action and this action is long overdue.

Mr. Chairman, I rise today in support of the amendment my friend from Idaho is offering to split the Ninth Circuit Court of Appeals. It's no surprise that the outcome of many of the Ninth Circuit's decisions is inconsistent case law that results in uncertainty among litigants.

After all, the Ninth Circuit encompasses nearly 40 percent of the land in the United States, stretching from Canada to Mexico and from Alaska to Guam. That means the Ninth Circuit must represent one out of every five Americans, even though there are eleven circuit courts handling appeals throughout the country.

The number of people who call the Ninth Circuit home and the distance it takes to travel across the massive geographic area already places a huge burden on this court. On top of

that, the Ninth Circuit has more appeals filed than any other court. And with each new appeal the time it takes to get a decision increases.

It's become an administrative nightmare, Mr. Chairman, but it results in more than just a paperwork backlog. The Ninth Circuit is simply too large to do an effective job, so it leaves people in my state and throughout the West without an effective voice in our nation's legal system.

It's a liability that deserves serious consideration by us today. An effective and efficient court system is essential to protecting the freedoms that we as Americans hold dear. The checks and balances that safeguard our liberties are meaningless without timely rendering of justice.

We must not let bureaucracy and administrative stagnation undermine development of coherent and consistent case law. This is an instance when bigger absolutely does not mean better, and it is important that we address this issue now.

My friend Mr. Simpson's amendment would create two new circuit courts and split the up the Ninth so that each of the three courts are better represented both proportionally and regionally. By focusing on a smaller geographic area with a smaller population base, the court would have the opportunity to develop a body of law based on consistency, constitutionality and rational public policy.

This simple solution would enable the judicial system in the West to render fair decisions in a timely manner and start clearing the enormous court backlog throughout our region. I'm proud to be working with Congressman SIMPSON on his continued effort to reshape the court system in the West and restore some commonsense and judicial reality to the federal appeals process. I strongly encourage you to vote for this amendment.

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

Mr. Chairman, I am not challenging the constitutionality of the proponent's amendment. I am challenging the wisdom of the proponent's amendment. If we do this, we are doing something unprecedented with significant adverse budgetary consequences in a fashion that will not distribute the caseload in any sense equally, that is opposed by the judges, that is opposed by the lawyers who practice in this court and, to the extent that it is ideologically motivated, foists on our poor California Republicans a circuit that they think will not serve their interests.

So I hate to see this squabble between the Idaho and Montana Republicans and the California Republicans, but the fact is this is why, even though you have the authority to draw these lines, it may not be wise to.

□ 1230

I urge opposition to the amendment, and I include for the RECORD a letter from the highly praised Ninth Circuit judge from Montana opposing the split.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT,
Billings, MT, October 28, 2003.

Re: H.R. 2723

Hon. Lamar Smith, Chairman,
Subcommittee on the Courts, the Internet, and Intellectual Property, Washington, D.C.

DEAR CHAIRMAN SMITH: I am a United States Circuit Judge with chambers in Billings, Montana. I write in opposition to H.R. 2723. I am also authorized to state that the following Ninth Circuit Judges whose official stations are within the boundaries of the proposed Twelfth Circuit join me in opposing H.R. 2723: Judge Otto R. Skopil (Portland, Oregon), Judge Betty Binns Fletcher (Seattle, Washington), and Judge Jerome Farris (Seattle, Washington). In addition, Judge James R. Browning (San Francisco, California), Judge Alfred T. Goodwin (Pasadena, California), Judge Robert Boochever (Pasadena, California) and Judge M. Margaret McKeown (San Diego, California), whose initial official duty stations were within the boundaries of the proposed Twelfth Circuit (Montana, Oregon, Alaska, and Washington, respectively), have authorized me to register their opposition to H.R. 2723. All of these judges maintain strong connections with their former states of residence. In particular, Judges Goodwin and McKeown wished me to emphasize that they spend a significant amount of time each year in the Northwest, maintain offices there, and retain close professional relationships with the bar and bench in Oregon and Washington, respectively.

Sincerely,

SIDNEY R. THOMAS.

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

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

Mr. Chairman, I appreciate the gentleman's concern for the squabble between the Republicans from California and the Republicans from Idaho. But I can tell the gentleman that some Republicans from California also see the need to split the Ninth Circuit. They also are concerned about not having the rest of us in the pool with them.

Let me just say this. The White Commission has been mentioned several times here, and I agree with the White Commission, as I have stated before. Splitting the court because one does not like the decisions is not the right reason to do it. If those individuals here want to split this court because they think that they are going to get better decisions out of a new court that they like better, they are going to be mighty disappointed because I can find decisions on any court anywhere in the land that I am going to disagree with. That is not a valid reason to split a court, even though there are some people who want to do it for that reason.

What I am asking the Members to do is to look past that and look at the statistics, look at the numbers, look at the facts that the reality is that it is going to be split at some time. We cannot go on with a court that is twice as large, will some day, looking at the growth rate, be three times as large as any other circuit court. According to the argument of the gentleman from California, what we should have done in 1980 when we split the Fifth Circuit was just add more judges, but we decided to split it, and, yes, all the judges there wanted to split the Fifth Circuit.

I would like to know of this 30 to nine vote that is being touted, how many of them were the undecideds that were counted in the 30. How many of them would have voted one way or another if a secret ballot was taken and they did not have to reveal who they were to the chief justice that they knew was opposed to the amendment.

I will also tell the Members that the White Commission also recognized there was something wrong with the Ninth Circuit because they recommended not a split in the Ninth Circuit, but to split it administratively, something that had not been done in any other region. They recognized that the administration of the Ninth Circuit was too large and needed to be handled differently. It was not efficient. So they recommended splitting the administration of it. Why they did not recommend splitting the court, I do not know. I think it is because it was always looked at as partisan. And I will also tell the Members that five of the nine Supreme Court Justices have made public comments about the need to split the Ninth Circuit.

I urge support for the amendment.

Mr. SMITH of Texas. Mr. Chairman, I support this amendment.

The Ninth Circuit has become so large that unless something is done, it risks becoming irrelevant.

In the past 2 years, the Courts, Internet and Intellectual Property Subcommittee has held two hearings on this issue.

It is clear to me that this bill contains much-needed reforms to the court system.

As has been pointed out, the Ninth Circuit is the largest in the country. It represents 56 million people and has 48 judges—twice the number of judges in the next largest circuit.

It has gotten so big that because its size prohibits participation by the entire circuit, as few as six judges often determine case law for the entire circuit.

This leads to inconsistent decisions and uncertainty for litigants.

The Ninth Circuit leads all circuits in total appeals filed and pending.

The increase in its workload over one and 5-year periods leads all circuits.

Worst of all, it continues to rank as one of the slowest circuits in disposing of cases.

Mr. Chairman, bigger court systems do not mean better justice, but slower justice.

And as we know, "justice delayed is justice denied."

Unless this problem is addressed, the Ninth Circuit will continue to grow in size but diminish in effectiveness.

Mr. SIMPSON'S amendment takes a common sense approach and will make the Ninth Circuit more efficient.

This amendment creates a new Ninth Circuit, as well as a new Twelfth and Thirteenth.

In addition, it authorizes the President to appoint five new judges to permanent Ninth Circuit seats and two judges to fill temporary seats.

The Ninth Circuit has grown too big to take care of the people it serves. I urge my colleagues to support this amendment and help us improve the justice system in this country.

Americans for the most part have retained faith in our judiciary because they believe it applies the rule of law, from traffic court to the Supreme Court, when adjudicating legal disputes.

I hope we are able to return to the Ninth Circuit an ability to discharge its civic functions on behalf of the American people.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Idaho (Mr. SIMPSON).

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

RECORDED VOTE

Mr. BERMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 194, not voting 33, as follows:

[Roll No. 492]

AYES—205

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Camp
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—194

Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Calvert
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clyburn
Conyers
Cooper
Costello
Cox
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dooley (CA)
Doyle
Dreier
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—33

Abercrombie
Ackerman
Boehlert
Brown, Corrine
Buyer
Cannon
Clay
Delahunt
DeMint
Dingell
Doggett
Forbes
Gephardt
Goode
Greenwood
Hastings (FL)
Hoeffel
Isakson
John
Kucinich
Lampson
Majette
Meeks (NY)
Millender-McDonald
Nethercutt
Norwood
Payne
Portman
Sullivan
Tauzin
Terry
Towns
Weldon (PA)

□ 1306

Ms. BALDWIN and Messrs. CARDOZA, SCOTT of Georgia, DAVIS of Tennessee, and BERRY changed their vote from ''aye'' to ''no.''

Messrs. GUTKNECHT, GERLACH, THOMAS, ROHRABACHER, NUNES, OSE, LEWIS of California, GARY G. MILLER of California, McKEON, CUNNINGHAM, RADANOVICH, and GALLEGLY, and Mrs. JOHNSON of Connecticut changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BIGGERT) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes; pursuant to House Resolution 814, he reported the Senate bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. BERMAN

Mr. BERMAN. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BERMAN. In its present form, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BERMAN moves to recommit the bill S. 878 to the Committee on the Judiciary with instructions that the Committee report the same back to the House forthwith with the following amendment:

In section 6(h) of the bill, add the following new paragraph at the end:

(4) If the matter is one involving a judge who has refused the request of a party to a proceeding to disqualify himself or herself pursuant to a recusal, any appeal of that decision shall be had in such court.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) is recognized for 5 minutes in support of his motion.

Mr. BERMAN. Madam Speaker, the Committee on Rules denied me and the rule denied me the opportunity to offer a variation of this amendment in committee, even though they allowed one other nongermane amendment, which we just adopted.

This amendment, I believe, addresses a serious problem in the current structure of the Federal procedures. If an

outside party complains that a Federal judge has engaged in misconduct, that party has a right to have the presiding judge entertain his complaint. If it is the district court, it is the chief judge of the district that that judge sits in; if it is the appellate court, it is the presiding judge of the circuit; and if it is the Supreme Court, it is the Chief Justice of the Supreme Court.

If the presiding judge or the chief judge does not resolve that, the complainant is entitled to a three-judge panel. That is for misconduct.

But for recusals based on an apparent conflict of interest, asking a judge to step aside and not hear a particular case, there is absolutely no process other than the judge himself who is being alleged to have not been appropriately sitting on that case because of conflicts of interest or apparent conflicts of interest; that judge gets to decide for himself. That system is not right.

What this amendment would do in order to be germane and apply as a pilot project, and Chief Justice Rehnquist himself highlighted this statutory anomaly to several U.S. Senators; these Senators had expressed concern that Justice Scalia did not recuse himself from a case in which Vice President CHENEY was a named litigant. While this case was pending, Justice Scalia had taken a duck-hunting trip with the Vice President. Not only did they hunt together for several days, but Justice Scalia also traveled with the Vice President aboard Air Force 2.

In a public document explaining his refusal to recuse himself from a case involving his hunting buddy, Justice Scalia wrote that he did not believe ''his impartiality might reasonably be questioned.'' In commenting on Justice Scalia's decision, Chief Justice Rehnquist wrote to the Senators, ''There is no formal procedure for a court review of a decision of a Justice in such a case.''

While I believe that my notions of the propriety of Justice Scalia's refusal to recuse himself are not important, the opinion of the American people is important. The efficacy of our court system depends entirely on the perception that the courts will administer justice impartially. If the courts lose the trust of the people, they lose their only real power.

Reasonably or not, fairly or not, many folks around this country did question whether Justice Scalia could be impartial in a case involving a hunting buddy. It is clear that Justice Scalia's declaration of impartiality did not itself put these questions to rest. To the extent these questions persist, our court system suffers.

This motion to recommit in the new circuits established so that the motion will be in order will establish a process by which the Federal courts can design a procedure where refusals by the judge to recuse himself can be heard by other judges, thereby getting rid of the problem of the appearance of conflict of interest.

I want to make it very clear. I am not coming to the conclusion that Justice Scalia had a conflict of interest; I am coming to the opinion and the conclusion which I believe strongly that someone other than Justice Scalia should be able to make this decision, just like someone other than an accused justice should be able to make the decision about whether or not there has been judicial misconduct.

We are leaving full authority to the Federal courts to design that process, but the notion that there is some appeal, some procedure, some process by which a challenge to the fairness and impartiality of a judge will be heard by someone other than the judge is a necessity.

I urge the adoption of this motion.

Unlike the judicial misconduct statute, the recusal statute currently provides no opportunity to appeal a judge's refusal to recuse himself. My amendment would have simply brought the procedures for addressing recusal and misconduct decisions into line with one another.

Chief Justice Rehnquist himself highlighted this statutory anomaly in a letter to several U.S. Senators. These Senators had expressed concern that Justice Scalia did not recuse himself from a case in which Vice President CHENEY was a named litigant. While this case was pending, Justice Scalia had taken a duck-hunting trip with the Vice President. Not only did they hunt together for several days, but Justice Scalia also traveled with the Vice President aboard Air Force Two.

In a public document explaining his refusal to recuse himself from a case involving his hunting buddy, Justice Scalia wrote that he did not believe "his impartiality might reasonably be questioned." In commenting on Justice Scalia's decision, Chief Justice Rehnquist noted that, "There is no formal procedure for a Court review of a decision of a Justice in an individual case."

What I believe about the propriety of Justice Scalia's refusal to recuse himself is unimportant. What is important, however, is the opinion of the American people. The efficacy of our court system depends entirely on the perception that the courts will administer justice impartially. If the courts lose the trust of the people, they lose their only real power.

Reasonably or not, many folks around the country did question whether Justice Scalia could be impartial in a case involving a hunting buddy. It is clear that Justice Scalia's declaration of impartiality did not, itself, put these questions to rest. To the extent these questions persist, our court system suffers.

Mr. SENSENBRENNER. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Madam Speaker, this is the wrong time, the wrong procedure, and the wrong amendment to deal with what is a very legitimate problem.

If the procedure that was outlined by the gentleman from California's motion to recommit were in place at the time Justice Scalia and Vice President CHENEY went on their duck-hunting trip, the other eight Justices of the Supreme Court would decide whether or not Justice Scalia could vote on the case that Vice President CHENEY was a named litigant in. This can be subject to extreme misuse as people could file complaints again Justices and ask for recusals to take them out and to take their votes out if they felt that the Justices would vote the wrong way.

And the same thing under the gentleman from California's motion to recommit would apply at the district court and the Court of Appeals level, and that is whether a judge's colleagues will determine whether or not a judge has a vote on a piece of litigation that is coming before the court.

□ 1315

Now, I concede the fact that there is a problem that the gentleman from California (Mr. BERMAN) has recognized; but his solution is the wrong solution.

The correct solution is to allow the commission that has been appointed by Chief Justice Rehnquist and which is headed by Justice Steven Bryer, looking into judicial misconduct statutes and how they should be changed to come up with a recommendation that can either be enacted into law by statute or adopted as a rule of civil or criminal procedure.

If legislation is necessary, we should go through the normal legislative process in looking at all of the angles of the proposed solution to make sure that what we are doing is right. I know there is a problem, but the gentleman from California (Mr. BERMAN) is not right. We should allow people to study this more dispassionately and thus vote down the motion to recommit.

I ask for a ''no'' vote.

Madam Speaker, I yield back the balance of my time

The SPEAKER pro tempore (Mrs. BIGGERT). Without objection, the previous question is ordered on the motion to recommit.

There was no objection

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. BERMAN. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 190, noes 216, not voting 26, as follows:

[Roll No. 493]

AYES—190

Ackerman	Baca	Becerra
Allen	Baird	Bell
Andrews	Baldwin	Berkley

Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—216

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Abercrombie
Boehlert
Brown, Corrine
Cannon
DeMint
Forbes
Gephardt
Goode
Greenwood
Hastings (FL)
Hoeffel
Isakson
John
Kucinich
Lampson
Majette
Matsui
Meeks (NY)
Millender-McDonald
Nethercutt
Norwood
Payne
Portman
Tauzin
Terry
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

□ 1336

Messrs. DUNCAN, SOUDER and SHAYS changed their vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Madam Speaker, in accordance with a leave of absence approved earlier today, I was unavoidably absent from the House. Had I been present, I would have voted as follows:

Rollcall: 490, Previous Question on the rule for S. 878, "no"; 491, Rule for consideration of S. 878, "no"; 492, Simpson Amendment to S. 878, "no"; 493, Motion to recommit S. 878 with instructions, "yes."

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

The bill was passed.

The title of the bill was amended so as to read: ''A bill to create additional Federal court judgeships.''.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

RECOGNIZING SPIRIT OF JACOB MOCK DOUB AND EXPRESSING SENSE OF CONGRESS THAT ''NATIONAL TAKE A KID MOUNTAIN BIKING DAY'' SHOULD BE ESTABLISHED IN JACOB MOCK DOUB'S HONOR

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 480) recognizing the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit and expressing the sense of Congress that ''National Take a Kid Mountain Biking Day'' should be established in Jacob Mock Doub's honor.

The Clerk read as follows:

H. CON. RES. 480

Whereas, according to the Centers for Disease Control and Prevention, obesity rates have nearly tripled in adolescents in the United States since 1980;

Whereas overweight adolescents have a 70 percent chance of becoming overweight or obese adults;

Whereas research conducted by the National Institutes of Health indicates that while genetics do play a role in childhood obesity, the large increase in childhood obesity rates over the past few decades can be traced to overeating and lack of sufficient exercise;

Whereas the Surgeon General and the President's Council on Physical Fitness and Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity;

Whereas Jacob Mock ''Jack'' Doub, born July 11, 1985, was actively involved in encouraging others, especially children, to ride bicycles;

Whereas Jack Doub, an active youth with an avid interest in the outdoors, was introduced to mountain biking at the age of 11 near Grandfather Mountain, North Carolina, and quickly became a talented cyclist;

Whereas Jack Doub won almost every cross-country race he entered for two years, and between the ages of 14 and 17 became a top national-level downhill and slalom competitor;

Whereas Jack Doub placed second in junior expert dual slalom at the 2002 National Off Road Bicycling Association's National Championship Series at Snowshoe Mountain;

Whereas Jack Doub died unexpectedly from complications related to a bicycling injury on October 21, 2002;

Whereas Jack Doub's family and friends have joined, in association with the International Mountain Bicycling Association, to honor Jack Doub's spirit and love of bicycling by establishing the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle;

Whereas the International Mountain Bicycling Association's worldwide network includes 32,000 individual members, more than 450 bicycle clubs, 140 corporate partners, and 240 bicycle retailer members who coordinate

more than 1,000,000 volunteer trailwork hours each year and have built more than 5,000 miles of new trails; and

Whereas the International Mountain Bicycling Association has encouraged low-impact riding and volunteer trailwork participation since 1988: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the health risks associated with childhood obesity;

(2) recognizes the spirit of Jacob Mock Doub and his contribution to encouraging youth of all ages to be physically active and fit, especially through bicycling;

(3) expresses its sense that ''National Take a Kid Mountain Biking Day'' should be established in honor of Jacob Mock Doub; and

(4) encourages parents, schools, civic organizations, and students to promote increased physical activity among youth in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 480.

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

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support H. Con. Res. 480, authored by my good friend, the gentleman from North Carolina (Mr. BURR), to recognize the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit.

Jacob Doub, a resident of North Carolina, died unexpectedly from complications related to a bicycling injury 2 years ago. His spirit, however, lives on as his family and friends have recently joined with the International Mountain Bicycling Association to establish the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride a bike and to lead a physically active lifestyle.

I understand that Jack's vivacious attitude toward mountain biking was irrepressible. His energy and drive to be a great mountain biker is an inspiration to all of us. With obesity rates on the rise, we all need to take personal responsibility and do more to increase physical activity to improve our health.

Madam Speaker, I would urge my colleagues to adopt this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER), the sponsor of the resolution.

Mr. BLUMENAUER. Madam Speaker, I must correct the record. I am not a sponsor of the bill. It was introduced by the gentleman from North Carolina (Mr. BURR) and the gentleman from Massachusetts (Mr. MARKEY), though; but I do celebrate the spirit in which it is offered to recognize the contributions in terms of memorializing the notion of making sure our youth are physically fit and active and expressing the sense of Congress that National Take a Kid Mountain Biking Day should be established in Mr. Doub's honor.

I think it is important for us to move in this direction in part to take someone who loved the spirit, the challenge, the physical activity of cycling and to translate that to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle.

This is serious business. The committee has been working throughout this session of Congress, focusing on the needs of fitness for our youth. The notion of childhood obesity, the rates have nearly tripled in adolescents in the United States since 1980, and we know the research indicates that overweight adolescents have a 70 percent chance of becoming overweight or obese as adults and the range of physical problems that are associated with it.

That is why the Surgeon General and the President's Council on Physical Fitness and Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity, as well as general health promotion.

Mountain biking is a growing activity around the United States. In my State of Oregon, over 400,000 people participated in mountain biking last year. Bike Magazine identified the area around Hood River, Oregon, just to the east of my district, as some of the finest singletrack in the mountain bike universe, lying within an 80-mile radius of Hood River, incorporating all of the area that I represent.

It is important not just to fitness and recreation. It is also important to the economy.

Overall, bicycling and mountain bike tourism is important to local and State economies. We are finding across the country cycling activities are gathering tourists for organized rides, for touring and for mountain biking. In our State, tourism is a $6.1 billion industry, and we are watching as bicycling is becoming an ever-increasing part of that effort, programs like Cycle Oregon that bring together 2,000 people from around the country every year.

It also is the source of a growing industry just in terms of cycle manufacturing and sales. There are thousands of small businesses across America that are part of the bicycling industry and specifically mountain biking. We just found this last year in Oregon the Chris King Precision Components relocated from California to Oregon because of the local support for mountain biking.

□ 1345

And they join one of dozens of companies that are a part of that effort, creating a critical mass in terms of the component, manufacturing, sales and service.

For all of these reasons, in terms of celebrating the spirit of mountain biking, the importance of promoting fitness, particularly among our youth, because it is so important in areas like tourism and small businesses, I rise in support of this resolution and urge my colleagues not just to support it, but find ways that they can translate this back home to their communities to make a difference.

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

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume to urge all my colleagues to support this. This is a good piece of legislation. It recognizes an individual in the district of the gentleman from North Carolina (Mr. BURR), who died in a bicycling accident. It also recognizes a very helpful activity.

I have a mountain bike, although in Texas you would have to call it more of a prairie bike or a hill bike; but this is a good thing, and I hope we can pass it unanimously.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 480.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PATIENT NAVIGATOR OUTREACH AND CHRONIC DISEASE PREVENTION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 918) to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services, as amended.

The Clerk read as follows:

H.R. 918

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patient Navigator Outreach and Chronic Disease Prevention Act of 2004''.

SEC. 2. PATIENT NAVIGATOR GRANTS.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following:

"SEC. 340A. PATIENT NAVIGATOR GRANTS.

''(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to eligible entities for the development and operation of demonstration programs to provide patient navigator services to improve health care outcomes. The Secretary shall coordinate with, and ensure the participation of, the Indian Health Service, the National Cancer Institute, the Office of Rural Health Policy, and such other offices and agencies as deemed appropriate by the Secretary, regarding the design and evaluation of the demonstration programs.

''(b) USE OF FUNDS.—A condition on the receipt of a grant under this section is that the grantee agree to use the grant to recruit, assign, train, and employ patient navigators who have direct knowledge of the communities they serve to facilitate the care of individuals, including by performing each of the following duties:

''(1) Acting as contacts, including by assisting in the coordination of health care services and provider referrals, for individuals who are seeking prevention or early detection services for, or who following a screening or early detection service are found to have a symptom, abnormal finding, or diagnosis of, cancer or other chronic disease.

''(2) Facilitating the involvement of community organizations providing assistance to individuals who are at risk for or who have cancer or other chronic diseases to receive better access to high-quality health care services (such as by creating partnerships with patient advocacy groups, charities, health care centers, community hospice centers, other health care providers, or other organizations in the targeted community).

''(3) Notifying individuals of clinical trials and facilitating enrollment in these trials if requested and eligible.

''(4) Anticipating, identifying, and helping patients to overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

''(5) Coordinating with the relevant health insurance ombudsman programs to provide information to individuals who are at risk for or who have cancer or other chronic diseases about health coverage, including private insurance, health care savings accounts, and other publicly funded programs (such as Medicare, Medicaid, and the State children's health insurance program).

''(6) Conducting ongoing outreach to health disparity populations, including the uninsured, rural populations, and other medically underserved populations, in addition to assisting other individuals who are at risk for or who have cancer or other chronic diseases to seek preventative care.

''(c) GRANT PERIOD.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may award grants under this section for periods of not more than 3 years.

''(2) EXTENSIONS.—Subject to paragraph (3), the Secretary may extend the period of a grant under this section, except that—

''(A) each such extension shall be for a period of not more than 1 year; and

''(B) the Secretary may make not more than 4 such extensions with respect to any grant.

''(3) END OF GRANT PERIOD.—In carrying out this section, the Secretary may not authorize any grant period ending after September 30, 2010.

''(d) APPLICATION.—

''(1) IN GENERAL.—To seek a grant under this section, an eligible entity shall submit an application to the Secretary in such form, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—At a minimum, the Secretary shall require each such application to outline how the eligible entity will establish baseline measures and benchmarks that meet the Secretary's requirements to evaluate program outcomes.

''(e) UNIFORM BASELINE MEASURES.—The Secretary shall establish uniform baseline measures in order to properly evaluate the impact of the demonstration projects under this section.

''(f) PREFERENCE.—In making grants under this section, the Secretary shall give preference to eligible entities that demonstrate in their applications plans to utilize patient navigator services to overcome significant barriers in order to improve health care outcomes in their respective communities.

''(g) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall ensure coordination of the demonstration grant program under this section with existing authorized programs in order to facilitate access to high-quality health care services.

''(h) STUDY; REPORTS.—

''(1) FINAL REPORT BY SECRETARY.—Not later than 6 months after the completion of the demonstration grant program under this section, the Secretary shall conduct a study of the results of the program and submit to the Congress a report on such results that includes the following:

''(A) An evaluation of the program outcomes, including—

''(i) quantitative analysis of baseline and benchmark measures; and

''(ii) aggregate information about the patients served and program activities.

''(B) Recommendations on whether patient navigator programs could be used to improve patient outcomes in other public health areas.

''(2) INTERIM REPORTS BY SECRETARY.—The Secretary may provide interim reports to the Congress on the demonstration grant program under this section at such intervals as the Secretary determines to be appropriate.

''(3) INTERIM REPORTS BY GRANTEES.—The Secretary may require grant recipients under this section to submit interim reports on grant program outcomes.

''(i) RULE OF CONSTRUCTION.—This section shall not be construed to authorize funding for the delivery of health care services (other than the patient navigator duties listed in subsection (b)).

''(j) DEFINITIONS.—In this section:

''(1) The term 'eligible entity' means a public or nonprofit private health center (including a Federally qualified health center (as that term is defined in section 1861(aa)(4) of the Social Security Act)), a health facility operated by or pursuant to a contract with the Indian Health Service, a hospital, a cancer center, a rural health clinic, an academic health center, or a nonprofit entity that enters into a partnership or coordinates referrals with such a center, clinic, facility, or hospital to provide patient navigator services.

''(2) The term 'health disparity population' means a population that, as determined by the Secretary, has a significant disparity in the overall rate of disease incidence, prevalence, morbidity, mortality, or survival rates as compared to the health status of the general population.

''(3) The term 'patient navigator' means an individual who has completed a training program approved by the Secretary to perform the duties listed in subsection (b).

''(k) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2006, $5,000,000 for fiscal year 2007, $8,000,000 for fiscal year 2008, $6,500,000 for fiscal year 2009, and $3,500,000 for fiscal year 2010.

''(2) AVAILABILITY.—The amounts appropriated pursuant to paragraph (1) shall remain available for obligation through the end of fiscal year 2010.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 918, the bill now under consideration.

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

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have a number of bills before the House today, dealing with health-related issues that have come out of the committee that I have the privilege to chair, the Committee on Energy and Commerce. This bill is one of the more important of those bills as it attempts to give our citizens the ability to navigate the health care system to get the very best possible care in the most time-efficient manner.

I would like to take a step back and reflect on where we have been in this Congress and in previous Congresses. As the second session of this Congress draws to a close, I think it is entirely fitting that the House should devote much of its time today on these health care issues. It is not a stretch, in my opinion, to call this House, the 108th Congress, the Health Care Congress. I am proud of the many accomplishments that the Committee on Energy and Commerce has been responsible for in this area over the last 2 years.

I think the achievement that we will reflect back on and be most proud of, of course, is the Medicare Modernization Act, which President Bush has already signed into law and which is helping millions of our senior citizens as we speak. After years of debate and inaction, this Congress finally has delivered in that bill a prescription drug benefit to our Nation's seniors.

Of course, not all of the Medicare Modernization Act's provisions are fully up and running yet. They will be phased in over the next several years. And when they are totally phased in, I think we will all look back and reflect that this was a very good thing that we have done in this Congress.

We should be proud of our achievement. I salute the members of the Committee on Energy and Commerce who have worked so long and hard to make that happen.

Prescription drugs are not the only area where this Congress has worked to advance the health agenda of the American people. Working with President Bush, we have also written laws that upgrade our medical device program. We have instituted a new animal drug approval system. We have provided for competition in the contact

lens marketplace. We have updated our poison control center programs.

I might add that all of those achievements occurred under Congressman BILLY TAUZIN of Louisiana, who, as we speak, is undergoing radiation treatment down in Texas for a cancer that he has discovered in his body that, hopefully, is being removed.

We have also improved our Nation's organ donor system and, most recently, created a new program to help prevent and educate against youth suicide. By any measure, these accomplishments would rival that of any Congress in the past.

Today, we are continuing the good work we have already established in the 108th Congress. We have five substantive bills that we are going to debate and vote on, hopefully in a positive way, in the next several hours, all of which in some way improve the health care system for millions and millions of Americans.

The one we are debating at this moment is the Patient Navigator Outreach and Chronic Disease Prevention Act. The Committee on Energy and Commerce favorably reported this legislation last week, and it is now on the floor.

Improving health care outcomes for all Americans requires substantial improvements in health disparity populations, populations not defined solely by race and ethnicity, that have a significant disparity in the overall rate of disease incidence, prevalence, morbidity, mortality, or survival rates as compared to the health status of the general population. Patient navigator programs as provided in this bill provide outreach to communities to encourage more individuals to seek preventive care and coordinate that care so that they are less at risk to have or to maintain a chronic disease.

For example, the Ralph Lauren Center for Cancer Care and Prevention, a partnership between Memorial Sloan-Kettering and North General Hospital in Harlem, New York, operates a patient navigator program to help patients and family members deal with the complexities of the health care system in that area. By coordinating health care services through a patient navigator, programs strive to shorten the period of time when the patient is screened for cancer or other chronic diseases and further diagnosis and treatment, so they can be treated as soon as possible.

H.R. 918, as amended by the Committee on Energy and Commerce, authorizes a 5-year demonstration program to evaluate the use of patient navigators. Specifically, the legislation requires patient navigators to coordinate health care services and provider referrals, facilitating the involvement of community organizations to provide assistance to patients, facilitate enrollment in clinical trials, anticipate barriers within the health care system itself, to help ensure prompt diagnostic care and treatment, to coordinate with the health insurance ombudsman program, and conduct ongoing outreach to health disparity populations for preventive care.

Grant recipients must establish baseline measures and benchmarks to evaluate the program outcome, which all culminate in a final report prepared by the Secretary no later than 6 months after the completion of the demonstration grant program. The bill authorizes a total of $25 million over a 5-year period to conduct these demonstration programs.

I would like to thank the distinguished gentlewoman from the 15th Congressional District of Ohio (Ms. PRYCE), for her outstanding leadership and undying commitment to this particular bill. I would also like to thank the chairman of the subcommittee, the gentleman from Florida (Mr. BILIRAKIS), for his work; the ranking member, the gentleman from Michigan (Mr. DINGELL); the subcommittee's ranking member, the gentleman from Ohio (Mr. BROWN); and the bill's sponsor, the gentleman from New York (Mr. MENENDEZ), for their assistance in streamlining this legislation.

Again, Madam Speaker, I want to congratulate my colleagues on a very successful Health Care Congress, and especially on this particular bill. If we can get the bills that we are considering today to the President's desk, the 108th Congress should go down as one of the best ever for health care initiatives.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself 2 minutes, and I want to begin by thanking the chairman, the gentleman from Texas (Mr. BARTON), for his good work today with this whole slew of eight or nine bills that we are doing bipartisanly. It is legislation that clearly helps health care in this country, and I want to thank Chairman Barton for that, and also the chairman of the subcommittee, (Mr. BILIRAKIS), for his work.

Too many Americans face financial barriers to health care. The American Cancer Society and other patient advocates support H.R. 918 because they know many Americans also face serious nonfinancial barriers. These include significant racial and cultural and linguistic and geographic barriers, barriers that have contributed to the striking disparities across racial and ethnic lines in the incidence and the treatment of cancer and other chronic diseases.

This patient navigator bill is intended to ease the way for patients confronting a serious illness in an intimidating array of treatment options. With this legislation's passage, we will begin to see increased enrollment in clinical trials, we will see greater community involvement in health awareness, and we will have a more coordinated approach to health care services that will benefit all patients in the end.

I want to commend the gentleman from New Jersey (Mr. MENENDEZ) for this legislation, my colleague, the gentlewoman from Ohio (Ms. PRYCE), for her hard work also on this bill; and I am pleased to support it.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 5 minutes to the gentlewoman from the 15th District of Ohio (Ms. PRYCE), our distinguished Republican Conference chairwoman.

Ms. PRYCE of Ohio. Madam Speaker, I thank the gentleman for yielding me this time, and I want to begin by commending the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Committee on Energy and Commerce. He has led this committee with great strength since he took the helm; we have enjoyed working with him, and I want to thank him for his attention to this important issue.

I also want to extend special thanks to my friend and colleague, the gentleman from New Jersey (Mr. MENENDEZ). He has been a great partner over the last few years as we have worked this initiative together. We represent different parts of the country, and we belong to different political parties, but we have put many differences aside and have joined together for a great purpose here today. We joined together because we understand that cancer, diabetes, and other chronic diseases can affect anyone in any part of the country, of any race and of any income level.

Madam Speaker, even with the tremendous advancements we have made in prevention, diagnosis, and treatment of illnesses, we understand that in far too many communities across this country navigating the health care system can be a significant barrier to gaining access to quality and affordable service.

Before I continue, I want to take a moment to extend my appreciation to my staff and the staff of the committee for their excellent work and the help they have given us. And I want to highlight the American Cancer Society, the National Association of Community Health Centers, and the National Rural Health Association for their tireless efforts to educate our colleagues about the importance of this issue.

Madam Speaker, each and every day Congress is in session, our colleagues on both sides of the aisle debate important issues. Sometimes we agree and other times we disagree. But at the end of the day, we share the same goal: to return to our districts with something positive to tell our constituents about.

Today, every Member of this body will have the opportunity to report to their constituents something positive: that this Congress has taken a significant step to ensure that our friends and neighbors across America have the tools and resources they need to make good decisions about their health and the health of their children.

Madam Speaker, last year, I had the opportunity to meet two gentlemen

who pioneered the concept that this legislation is based on, the patient navigator concept. Dr. Harold Freeman and Dr. Elmer Huerta were two of the most humble, kind gentlemen I have ever had the good fortune of getting to know. Let me tell you a little about what they do.

First, they recognized in their own work as doctors in underserved communities that navigating the health care system can be an insurmountable barrier for many, many people, especially when they are poor, underserved, and uninsured. All we have to do is step in and help them. Step out of our homes into communities and we will find families and individuals who struggle to find access to the health care that they need, both preventive and treatment.

The concept of these doctors is a great one. The patient navigators are angels who guide individuals through the health care system. It is truly one of the most creative and innovative ways to address the health care needs of these individuals, who may otherwise avoid seeing a doctor when they are healthy and avoid treatment when they need it, when they are sick.

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Whether based at hospitals, community health centers or cancer centers, these programs literally put in place patient navigators to help individuals find their way through the often complex health care systems that they are confronted with.

These navigators, like Leka Murdock whom I met during my visit to the Ralph Lauren Cancer Center in Harlem, assist people who come through their doors with obtaining coverage through the Medicaid system or other sources, they obtain cancer screenings or counseling about disease prevention, or they make referrals for treatment or clinical trial options should an abnormality be detected.

For people who may otherwise not know or be able to access the system, patient navigator programs offer them the tools and resources they need to make the good decisions about their health and the health of their children. They help break through the red tape that often prevents them from getting the information and the treatment so needed.

That is why the gentleman from New Jersey and I partnered together to introduce, garner support for and move forward this legislation that will create innovative demonstration projects in communities across the country based on this concept. This bill will link sustained health promotion outreach efforts with patient navigator programs. Specifically, the bill will make funds available to community health centers, cancer centers, rural and frontier serving medical facilities and other eligible entities to increase and promote chronic-disease-prevention screening, outreach and public health education, as well as provide patient navigators to help patients overcome the barriers and complexities in the system.

It is my hope that this legislation will serve as a springboard for launching many more navigator programs. These are extraordinary programs, and they are making real differences in the lives of people who are suffering, people who may not otherwise even know that they are sick. Or if they do, people who may not do what is necessary to get better. These are the people we need to reach, and this bill is a healthy start. By furthering this collaboration between the private and the public sectors, we will maximize our resources and close in on that day when cancer and other chronic diseases no longer threaten the lives of our loved ones.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the sponsor of the bill.

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I want to thank my colleague from Ohio (Mr. BROWN) as well as the gentleman from Michigan (Mr. DINGELL), ranking member on the Committee on Energy and Commerce, as well as the gentleman from Texas (Mr. BARTON) and the gentleman from Florida (Mr. BILIRAKIS), chairman on the Subcommittee on Health, and all their staff for bringing us here today. I want to particularly thank my good friend and lead cosponsor from Ohio (Ms. PRYCE) and her staff who have been actively engaged in this effort and have been instrumental in getting the bill to the floor today. And, of course, the gentlewoman from Ohio's own personal experiences and her family with the questions of cancer have made her such a powerful advocate in this regard.

This is truly a bipartisan effort and a case study in how, if we choose to work together across the aisle, we can really make a difference. I began working on this legislation several years ago to address the health disparities I saw in my district, a true melting pot of America with a very significant Hispanic population. There have been many people involved behind the scenes in this effort that I want to take the opportunity to thank.

The first person I spoke to about this issue was David Woodmansee, who is the Northeast regional representative for the American Cancer Society. The second person I met with was Licy Do Canto who was with the American Cancer Society and has continued the fight for patient navigators at the National Association of Community Health Centers. Dave and Licy, along with the help of ACS employees, were instrumental in helping us to take a concept such as patient navigation and turn it into a legislative solution for improving health outcomes among all populations, particularly underserved populations. I also want to thank Karissa Willhite, the Democratic Caucus policy director, for her untiring efforts to achieve the success we expect to have today. And we cannot talk about patient navigators without thanking three doctors, Drs. Harold Freeman, Elmer Huerta and Gil Friedell, who have been pioneers in creating patient navigator programs that can be replicated across the country, which is exactly what we are doing today.

There is no question that we as a Nation must do more to improve health outcomes and that can only be done when we start at the bottom and bring those with the greatest disparities up out of despair. Reducing health disparities has been a much-talked-about goal, but we cannot achieve better health outcomes without action. We cannot just talk about the problem. We have to take action to end the problem.

The patient navigator bill is an effort to do just that. It will ensure that all Americans, regardless of income, race, ethnicity, language or geography will have access to prevention screening and treatment, and that they will have an advocate at their side helping them navigate through today's complicated health care system.

The bill addresses what I believe are the root causes of health disparities in minority and underserved communities. That is, lack of access to health care, particularly prevention and early detection. The bottom line is, the only way to stay healthy is to see a doctor when you are healthy. Unfortunately, patients in health disparity communities are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival. That is why we are here today, to give those people the chance they deserve for a long, healthy life.

The patient navigator bill does this by replicating the successful models developed by Drs. Freeman, Huerta and Friedell in a national demonstration project. It focuses on outreach and prevention through community health centers, rural health clinics, Indian health clinics and cancer clinics. And it does so by providing patient navigator services and outreach in health disparity communities to encourage people to get screened early so that they can receive the care they need. Patient navigators educate and empower patients, serving as their advocates in navigating the health care system.

In addition to having visited both Dr. Freeman's program in Harlem and Dr. Huerta's program here in Washington, my constituents in New Jersey and I have seen firsthand the difference patient navigators can make in a community. I was able to secure funding for a 1-year demonstration project at a community health center in Jersey City, New Jersey. The program has screened 842 people and has a caseload of about 140 patients who were identified

through these screenings with abnormal findings and are currently benefiting from the help of the patient navigator in finding follow-up care and treatment.

Before I close, I just want to share a story about Hazel Hailey, one of the patient navigators at this center and her daughter, Robin Waiters. Robin, who was only 36 years old, suffered severe stomach pains for 2 years and refused to see a doctor, despite her mother's pleas for her to seek medical care. Finally, she had no choice but to go see a doctor. Tragically, 3 months later, Robin died from colorectal cancer. Her mother, Hazel, who is now a patient navigator, tells us about her daughter's last request. She made her mom promise to tell all of her friends, family and everyone she could ''that if your body is trying to tell you something, listen to it. You could possibly save your life.'' Hazel quotes her daughter as saying, ''I am dying because I chose not to get help. Fear set in, and I lost out on life.''

Hazel is fulfilling her promise to her daughter as a patient navigator, working every day to ensure that what happened to her daughter does not happen to other families. That is why we are here today, to ensure that the Hazels across the country have the tools they need to educate and empower people about the importance of early detection screening and to help them navigate the complexities of the health care system so that they can get the treatment and follow-up care they need.

Again, I want to thank my colleague from Ohio (Ms. PRYCE) for all of her work on this effort as well as all of those who have worked behind the scenes to make this concept a reality. We have come too far and are too close to simply let the issue die at the end of this Congress, so I call upon our colleagues in the other body to join us in making this bill a reality this year. There is simply too much at stake if we do not act.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank the gentleman for yielding me this time.

While there is no question, Mr. Speaker, that tremendous progress has been made across our country in the fight against cancer and other diseases, barriers continue to exist between millions of Americans and their access to high quality health care. Whether it is due to distance, lack of health insurance, limited access to specialists, limited language skills, whatever the reason, too many Americans continue to receive a narrow range of health care services and limited options. That is why I am so pleased to join the gentlewoman from Ohio (Ms. PRYCE) and the gentleman from New Jersey (Mr. MENENDEZ) as an original cosponsor of the Patient Navigator, Outreach, and Chronic Disease Prevention Act and to express my heartfelt support for this vital piece of legislation that is going to improve the lives of so many people.

This program provides a crucial service, primarily to the underinsured and the uninsured members of all populations, and most specifically to the Hispanic and African-American populations that studies have shown are those who are in those categories of underinsured and uninsured. Navigating the health system can be a huge barrier for many people. The patient navigator bill will greatly aid the community by providing a more efficient service for all. The patient navigator bill will also help the communities by providing a more efficient service for all minorities because it addresses the unique needs of the population that it serves through providing culturally sensitive services, including cancer screening, disease prevention counseling, assistance in obtaining Medicaid and other necessary referrals.

This important legislation, Mr. Speaker, would ensure early prevention screening and timely treatment for all patients. It seeks to help close the gap that exists in health care treatment for minority communities, thus improving their quality of life and ensuring that the minority members of our community are treated with the utmost respect and care.

An example of a successful patient navigator program exists right here in our Nation's capital, Mr. Speaker. It is run by Dr. Elmer Huerta, one of the founding fathers of the patient navigator program. Dr. Huerta conducts a weekly 1-hour show called, Let's Talk About Health, Hablemos de Salud, which focuses on health promotion and disease prevention. This show reaches about 75 percent of Hispanics and Latinos in the United States, over 25 million people, and it extends to Latin America. I am proud to be associated with such a dynamic and exciting program, and I thank all who have worked tirelessly to make this vital program a reality. Muchas gracias.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleague Congressman ROBERT MENENDEZ of New Jersey in the passage of H.R. 918, the Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2003. As you know, Mr. Speaker, I have come to this floor on numerous occasions to express my outrage concerning racial and ethnic health disparities in this Nation and legislative solutions to address them. For years, research has told us that minorities and low-income populations are the least likely to receive the health care they need to live a long, healthy life. We've done a very good job of identifying this problem and finally we have a bill that will begin the process of solving them.

The bill we are passing today while greatly modified enjoys strong support from the American Cancer Society, the National Association of Community Health Centers, the National Alliance for Hispanic Health, the National Hispanic Medical Association, the National Medical Association, Racial and Ethnic Health Disparities Coalition, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Asian and Pacific Islander American Health Forum, the Cancer Research and Prevention Foundation, and the National Patient Advocate Foundation.

This bill addresses what many of us believe are the root causes of health disparities in minority and underserved communities: Lack of access to health care in general—and particularly lack of access to prevention and early detection—as well as language and cultural barriers to care.

In the 2002 IOM report Unequal Treatment: Confronting racial and ethnic disparities in care, research explained that there are a number of explanations for the higher rates of disease among minority populations, including higher rates of uninsured, reduce access to care, and lower quality of care. But all of these barriers point to the same underlying problem, minority patients are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival.

This bill we're passing today will be the process to ensure that all Americans, regardless of race, ethnicity, language, income, or geography, will have access to prevention screening and treatment, and that they will have an advocate at their side, helping them navigate through today's complicated health care system.

The bill before us ensures that navigators are available to help patients make their way through the health care system—whether it's translating technical medical terminology, making sense of their insurance, making appointments for referral screenings, following up to make sure the patient keeps that appointment, or even accompanying a patient to a referral appointment.

Mr. Speaker, I also want to acknowledge that the original concept for the legislation comes from Dr. Harold Freeman's ''navigator'' program, which he created while he was Director of Surgery at Harlem Hospital. It is our hope that Dr. Freeman's navigator concept and its laser shape focus on comprehensive modeling of prevention services will eventually be fully translated in legislative terms. To this end, it is my sincere desire that this body would move expeditiously in holding hearing on H.R. 3459 the Healthcare Equality and Accountability Act of 2003. It is our firm belief that H.R. 3459 expands and accents the comprehensive components that Dr. Freedman's navigator program embodies. As you know, Mr. Speaker, H.R. 3459 enjoys the support of 104 Members in this body, was created by the Congressional Black, Hispanic, Asian Pacific American, and Native American Caucuses, and included the introduced version of the bill before us today.

In closing, Mr. Speaker, I want to thank Karissa Willhite of Mr. MENENDEZ's office and John Ford and Cheryl Jaeger of the Energy and Commerce Committee along with other staff that enabled this bill to come to the floor. It urge my colleagues to vote for its adoption.

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

Mr. BARTON of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from

Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 918, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.''.

A motion to reconsider was laid on the table.

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3015) to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3015

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National All Schedules Prescription Electronic Reporting Act of 2004''.

SEC. 2. CONTROLLED SUBSTANCE MONITORING PROGRAM.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding after section 399N the following:

''SEC. 399O. CONTROLLED SUBSTANCE MONITORING PROGRAM.

''(a) FORMULA GRANTS.—

''(1) IN GENERAL.—Each fiscal year, the Secretary shall make a payment to each State with an application approved under this section for the purpose of establishing and implementing a controlled substance monitoring program under this section.

''(2) DETERMINATION OF AMOUNT.—In making payments under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an amount which bears the same ratio to the amount appropriated to carry out this section for that fiscal year as the number of pharmacies of the State bears to the number of pharmacies of all States with applications approved under this section (as determined by the Secretary), except that the Secretary may adjust the amount allocated to a State under this paragraph after taking into consideration the budget cost estimate for the State's controlled substance monitoring program.

''(b) APPLICATION APPROVAL PROCESS.—

''(1) IN GENERAL.—To seek a grant under this section, a State shall submit an application at such time, in such manner, and containing such assurances and information as the Secretary may reasonably require. Each such application shall include—

''(A) a budget cost estimate for the State's controlled substance monitoring program;

''(B) proposed standards for security for information handling and for the database maintained by the State under subsection (d) generally including efforts to use appropriate encryption technology or other such technology;

''(C) proposed standards for meeting the uniform electronic format requirement of subsection (g);

''(D) proposed standards for availability of information and limitation on access to program personnel;

''(E) proposed standards for access to the database, and procedures to ensure database accuracy;

''(F) proposed standards for redisclosure of information;

''(G) proposed penalties for illegal redisclosure of information; and

''(H) assurances of compliance with all other requirements of this section.

''(2) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the submission by a State of an application under paragraph (1), the Secretary shall approve or disapprove the application. The Secretary shall approve the application if the State demonstrates to the Secretary that the State will establish and implement or operate a controlled substance monitoring program in accordance with this section.

''(3) WITHDRAWAL OF AUTHORIZATION.—If a State fails to implement a controlled substance monitoring program in accordance with this section—

''(A) the Secretary shall give notice of the failure to the State; and

''(B) if the State fails to take corrective action within a reasonable period of time, the Secretary shall withdraw any approval of the State's application under this section.

''(4) VOLUNTARY DISCONTINUANCE.—A funding agreement for the receipt of a payment under this section is that the State involved will give a reasonable period of notice to the Secretary before ceasing to implement or operate a controlled substance monitoring program under this section. The Secretary shall determine the period of notice that is reasonable for purposes of this paragraph.

''(5) RETURN OF FUNDS.—If the Secretary withdraws approval of a State's application under this section, or the State chooses to cease to implement a controlled substance monitoring program under this section, a funding agreement for the receipt of a payment under this section is that the State will return to the Secretary an amount which bears the same ratio to the overall payment as the remaining time period for expending the payment bears to the overall time period for expending the payment (as specified by the Secretary at the time of the payment).

''(c) REPORTING REQUIREMENTS.—In implementing a controlled substance monitoring program under this section, a State shall comply with the following:

''(1) The State shall require dispensers to report to such State each dispensing in the State of a controlled substance to an ultimate user or research subject not later than 1 week after the date of such dispensing.

''(2) The State may exclude from the reporting requirement of this subsection—

''(A) the direct administration of a controlled substance to the body of an ultimate user or research subject;

''(B) the dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user or research subject involved for 48 hours or less; or

''(C) the administration or dispensing of a controlled substance in accordance with any other exclusion identified by the Secretary for purposes of this paragraph.

''(3) The information to be reported under this subsection with respect to the dispensing of a controlled substance shall include the following:

''(A) Drug Enforcement Administration Registration Number of the dispenser.

''(B) Drug Enforcement Administration Registration Number and name of the practitioner who prescribed the drug.

''(C) Name, address, and telephone number of the ultimate user or research subject.

''(D) Identification of the drug by a national drug code number.

''(E) Quantity dispensed.

''(F) Estimated number of days for which such quantity should last.

''(G) Number of refills ordered.

''(H) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

''(I) Date of the dispensing.

''(J) Date of origin of the prescription.

''(4) The State shall require dispensers to report information under this section in accordance with the electronic format specified by the Secretary under subsection (g), except that the State may waive the requirement of such format with respect to an individual dispenser.

''(5) The State shall automatically share information reported under this subsection with another State with an application approved under this section if the information concerns—

''(A) the dispensing of a controlled substance to an ultimate user or research subject who resides in such other State; or

''(B) the dispensing of a controlled substance prescribed by a practitioner whose principal place of business is located in such other State.

''(6) The State may notify the appropriate authorities responsible for drug diversion investigation if information in the database maintained by the State under subsection (d) indicates an unlawful diversion or misuse of a controlled substance.

''(d) DATABASE.—In implementing a controlled substance monitoring program under this section, a State shall comply with the following:

''(1) The State shall establish and maintain an electronic database containing the information reported to the State under subsection (c).

''(2) The database must be searchable by any field or combination of fields.

''(3) The State shall include reported information in the database at such time and in such manner as the Secretary determines appropriate, with appropriate safeguards for ensuring the accuracy and completeness of the database.

''(4) The State shall take appropriate security measures to protect the integrity of, and access to, the database.

''(e) PROVISION OF INFORMATION.—Subject to subsection (f), in implementing a controlled substance monitoring program under this section, a State may provide information from the database established under subsection (d) and, in the case of a request under paragraph (3), summary statistics of such information, in response to a request by—

''(1) a practitioner (or the agent thereof) who certifies, under the procedures determined by the State, that the requested information is for the purpose of providing medical or pharmaceutical treatment or evaluating the need for such treatment to a bona fide current patient;

''(2) any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, who certifies, under the procedures determined by the State, that the requested information is related to an individual investigation or proceeding involving the unlawful diversion or misuse of a schedule II, III, or IV substance, and such information will further the purpose of the investigation or assist in the proceeding;

''(3) any agent of the Department of Health and Human Services, a State medicaid program, a State health department, or the Drug Enforcement Administration who certifies that the requested information is necessary for research to be conducted by such department, program, or administration, respectively, and the intended purpose of the research is related to a function committed to such department, program, or administration by law that is not investigative in nature; or

''(4) any agent of another State, who certifies that the State has an application approved under this section and the requested information is for the purpose of implementing the State's controlled substance monitoring program under this section.

''(f) LIMITATIONS.—In implementing a controlled substance monitoring program under this section, a State—

''(1) shall make reasonable efforts to limit the information provided pursuant to a valid request under subsection (e) to the minimum necessary to accomplish the intended purpose of the request; and

''(2) shall not provide any individually identifiable information in response to a request under subsection (e)(3).

''(g) ELECTRONIC FORMAT.—The Secretary shall specify a uniform electronic format for the reporting, sharing, and provision of information under this section.

''(h) RULES OF CONSTRUCTION.—

''(1) FUNCTIONS OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be construed to restrict the ability of any authority, including any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, to perform functions otherwise authorized by law.

''(2) NO PREEMPTION.—Nothing in this section shall be construed as preempting any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

''(3) ADDITIONAL PRIVACY PROTECTIONS.—Nothing in this section shall be construed as preempting any State from imposing any additional privacy protections.

''(4) CERTAIN CONFIDENTIALITY REQUIREMENTS.—Nothing in this section shall be construed as superceding the confidentiality requirements of programs defined by and subject to part 2 of title 42, Code of Federal Regulations.

''(5) NO FEDERAL PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to create a Federal private cause of action.

''(i) RELATION TO HIPAA.—Except to the extent inconsistent with this section, the provision of information pursuant to subsection (c)(5), (c)(6), or (e) and the subsequent transfer of such information are subject to any requirement that would otherwise apply under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(j) PREFERENCE.—Beginning January 1, 2007, the Secretary, in awarding any competitive grant that is related to drug abuse (as determined by the Secretary) to a State, shall give preference to any State with an application approved under this section.

''(k) STUDY.—Not later than 2 years after the date of the enactment of this section, the Secretary shall—

''(1) complete a study that—

''(A) determines the progress of States in establishing and implementing controlled substance monitoring programs under this section;

''(B) determines the feasibility of implementing a real-time electronic controlled substance monitoring program, including the costs associated with establishing such a program; and

''(C) provides an analysis of the privacy protections in place for the information reported to the controlled substance monitoring program in each State receiving a grant for the establishment or operation of such program, and a comparison to the privacy requirements that apply to covered entities under regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996, along with any recommendations for additional requirements for protection of this information; and

''(2) submit a report to the Congress on the results of the study.

''(l) ADVISORY COUNCIL.—

''(1) ESTABLISHMENT.—A State may establish an advisory council to assist in the establishment and implementation of a controlled substance monitoring program under this section.

''(2) SENSE OF CONGRESS.—It is the sense of the Congress that, in establishing an advisory council under this subsection, a State should consult with appropriate professional boards and other interested parties.

''(m) DEFINITIONS.—For purposes of this section:

''(1) The term 'bona fide patient' means an individual who is a patient of the dispenser or practitioner involved.

''(2) The term 'controlled substance' means a drug that is included in schedule II, III, or IV of section 202(c) of the Controlled Substance Act.

''(3) The term 'dispense' means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, irrespective of whether the dispenser uses the Internet or other means to effect such delivery.

''(4) The term 'dispenser' means a physician, pharmacist, or other individual who dispenses a controlled substance to an ultimate user or research subject.

''(5) The term 'practitioner' means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he or she practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

''(6) The term 'State' means each of the 50 States and the District of Columbia.

''(7) The term 'ultimate user' means a person who has lawfully obtained, and who possesses, a controlled substance for his or her own use, for the use of a member of his or her household, or for the use of an animal owned by him or her or by a member of his or her household.

''(n) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated—

''(1) $25,000,000 for each of fiscal years 2006 and 2007; and

''(2) $15,000,000 for each of fiscal years 2008, 2009, and 2010.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of H.R. 3015. All of us have deep concerns about the abuse of prescription drugs. Whether after surgery or in the treatment of chronic pain, ensuring that patients receive proper pain management is a critical component in the provision of health care. However, these medications can and sometimes are abused. The Committee on Energy and Commerce has heard about the problems prescription drug abuse has created in our communities throughout America. In some areas, the nonmedical use of prescription drugs presents a bigger problem than even cocaine and heroin. This is a serious issue that cannot be addressed through traditional drug control programs. We need to find a balanced approach that does not interfere with the doctor-patient relationship but also ensures that these potentially addictive drugs are not abused. Prescription drug monitoring programs can be a part of the solution to this public health challenge.

These programs help physicians better serve their patients because they can review the patient's prescription drug history. Drug interactions can often lead to adverse events for patients so that these monitoring programs serve as an additional safety check.

Only 21 States have implemented drug monitoring programs. While this is a good start, problems arise because illicit drug use shifts to contiguous States without monitoring programs. H.R. 3015 will strengthen prescription drug monitoring programs to eliminate gaps in systems between States and ensure that programs are interoperable so information is readily available across State lines.

I would like to thank the distinguished gentleman from Kentucky (Mr. WHITFIELD), the distinguished gentleman from New Jersey (Mr. PALLONE), the distinguished gentleman from Georgia (Mr. NORWOOD) and the distinguished gentleman from Ohio (Mr. STRICKLAND), all members of the Committee on Energy and Commerce, for their hard work on this legislation.

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At the appropriate time after the debate, I would urge that all of my colleagues support it.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2½ minutes.

Prescription drug pain relievers, stimulants, and other controlled substances play a crucial role in health care. But when misused, those same medicines can be enormously destructive, as we know. Some are addictive, life threatening; many are both.

As these medicines proliferate, so, unfortunately, does the risk of misuse. Over the last decade, use of prescription pain relievers has increased by nearly 200 percent, while the use of stimulants has increased by more than 150 percent. Some 6.2 million Americans misuse prescription medicines for nonmedical purposes. In 1999 a quarter of those who took prescription drugs for nonmedical purposes were new users. In other words, this problem is not just growing; simply, it is exploding.

To combat this problem, physicians and pharmacists need information. This legislation, which is the culmination of hard work and compromise by the gentleman from New Jersey (Mr. PALLONE), the gentleman from Kentucky (Mr. WHITFIELD), and the gentleman from Ohio (Mr. STRICKLAND) will provide the information and coordination necessary to stem the misuse of prescription medicines. The legislation creates grants to establish State-run programs for prescription monitoring that will be administered and will be coordinated at the Federal level.

Fighting prescription drug abuse, preventing nonmedical use together are a difficult problem that requires doctors and law enforcement authorities to acquire and to share information. I think this bill is an important step forward in this fight. I am pleased to support it.

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

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

I am going to yield to the gentleman from Kentucky (Mr. WHITFIELD), but before I do that I would like to announce to the House that one of the other cosponsors of this important legislation, the gentleman from Georgia (Mr. NORWOOD), as we speak, is awaiting a lung transplant, which may very well occur this afternoon and this legislation would have not gotten to the floor of the House without his strong commitment to it. So I would encourage all my colleagues to pray for the gentleman from Georgia (Mr. NORWOOD) that his surgery goes well and that he is back amongst us as soon as possible.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I thank the chairman for yielding me this time.

We are excited today to have on the floor this legislation relating to prescription drug abuse in the United States, which has reached epidemic proportions. Recent statistics show that 6.2 million Americans abuse prescription drugs. To help combat this problem, many States, such as my own State of Kentucky and about 20 others, have adopted prescription drug monitoring programs to assist physicians and law enforcement officials stop the abuse and prosecute those individuals who are breaking the law.

The cornerstone of most existing drug-monitoring programs is that they allow physicians access to the information before writing a prescription for a controlled substance. Physicians tell us that it is an invaluable tool in treating their patients. However, there is one glaring problem, and that is that these programs operate only intrastate. And as the gentleman from Texas (Chairman BARTON) mentioned, it is essential that we have an interstate program.

To that end, I have been pleased to work with the gentleman from New Jersey (Mr. PALLONE), the gentleman from Georgia (Mr. NORWOOD), the gentleman from Ohio (Mr. STRICKLAND), my colleagues on both sides of the aisle, on legislation to address this issue. This legislation, H.R. 3015, the National All Schedules Prescription Electronic Reporting Act, creates a grant program housed at the Department of Health and Human Services which will fund the establishment and operation of State-run prescription drug monitoring programs. It establishes standards for reporting data and governs who has access to such information and under what circumstances because of the privacy issues. From the beginning our goal has been to give physicians the tool they need to treat patients, which also provides a better mechanism to prosecute individuals who are allegedly using illegal controlled substances.

I believe this is a good bill, a balanced bill, and one that will provide States with an important tool to curb prescription drug abuse.

I would like at this time to thank all of the cosponsors and give particular thanks to the gentleman from Texas (Chairman BARTON) and the gentleman from Florida (Chairman BILIRAKIS); the gentleman from Michigan (Mr. DINGELL), ranking member; and the gentleman from Ohio (Mr. BROWN), without all of whom we would not have been successful without their efforts to get this legislation through the Committee on Energy and Commerce.

I would also like to recognize the hard work of our committee staff, particularly Chuck Clapton and Ryan Long and John Halliwell on my staff; and, of course, we could not have done it without the Democratic committee staff, and I would also like to thank them.

I would urge all Members to vote for this important legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), who has been a leader on health care in this Congress.

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for yielding me this time.

Mr. Speaker, as a sponsor of H.R. 3015, I rise today in strong support of this important piece of legislation and urge its passage in the House of Representatives. H.R. 3015, the National All Schedules Prescription Electronic Reporting Act, provides an avenue for addressing the illegal diversion and misuse of prescription drugs, which constitutes one of the fastest growing areas of drug abuse in our Nation today, affecting people of all areas of our Nation, all ages and all income levels.

Health care practitioners and pharmacists desperately need electronic prescription drug monitoring systems to ensure that they are prescribing and dispensing schedule II, III, and IV controlled substances that are medically necessary. This bill provides the resources to States to create and operate State-based prescription drug monitoring programs, allows physicians to access this information, and allows for States to communicate with one another. If enacted into law, this bill would help physicians prevent their patients from becoming addicted to prescription medications and would help law enforcement with criminal investigations in the illicit prescription drug market.

Mr. Speaker, H.R. 3015 represents a work of great bipartisan effort; and I thank the gentleman from Kentucky (Mr. WHITFIELD), of course the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Ohio (Mr. STRICKLAND) for their willingness to move forward with this effort. But I also want to thank our chairmen and our ranking members of the full committee as well as the subcommittee.

This is an effort to alleviate the prescription drug abuse problem plaguing our Nation. In addition, I want to applaud the leadership of the American Society for Interventional Pain Physicians for working with Congress in this significant public health initiative. I have to say I have never seen a more effective lobbying effort than what they put forth to try to move this bill.

Mr. WAXMAN. Mr. Speaker, I believe that H.R. 3015, legislation to support State controlled substance monitoring programs, is well intentioned. Non-medical use of controlled substances is a serious problem. Establishing State databases that contain information on prescriptions for such substances may help stem the practice of individuals seeking prescriptions from multiple providers for the purpose of non-medical use.

However, as we forge policies to facilitate controlled substance prescription information sharing among providers, States, and others, we must carefully consider the privacy implications of such steps. The databases H.R. 3015 supports potentially will contain a vast amount of personal medical information—including individually identifiable data regarding many individuals who are given prescriptions for legitimate medical reasons such as recovery from surgery. The last thing we want to do is deter individuals from seeking medical care out of fear that the privacy of their health information will not be protected.

I am pleased that, following up on concerns I expressed when the bill was under consideration in committee, sponsors of the measure agreed to add language that is a step forward

from earlier versions of the bill with respect to privacy protection. This language includes (1) a requirement that the Secretary of Health and Human Services study and report to Congress on the privacy protections regarding each State database that receives funding under the bill; and (2) requirements that the State grant applications submitted to the Secretary of HHS propose standards regarding redisclosure of information, penalties for illegal redisclosure of information, and other privacy related standards. These provisions increase focus by States and HHS on the privacy issues raised by the State controlled substance monitoring programs.

However, H.R. 3015's State-to-State disclosure and uniform electronic format provisions promote the development of, in essence, a national prescription database network. As such, it is particularly important that Congress work to ensure that appropriate privacy standards apply to databases in the network. The bill does not accomplish this task. It contains no minimum Federal standards or even a requirement that the HHS Secretary develop publicly reviewable criteria for assessing the sufficiency of the privacy standards that States must propose for their programs when applying for grants under the bill.

I do want to recognize and acknowledge the efforts of the sponsors to respond to the privacy concerns that I raised, particularly the efforts of Mr. PALLONE, Dr. NORWOOD, and Mr. WHITFIELD. And while I cannot support this bill at this point, I hope that with further consideration by the Senate and ultimately in conference, Members will carefully consider the privacy ramifications of controlled substance monitoring systems and make improvements in this area before the bill is enacted.

Mr. CHANDLER. Mr. Speaker, I am pleased to stand in support of H.R. 3015, the National All Schedules Prescription Electronic Reporting Act (NASPER).

As my Kentucky colleagues know, prescription drug abuse is one of the paramount challenges in our effort to curb substance abuse in our State. In 1997, as Attorney General of Kentucky, I established the Prescription Drug Abuse Task Force in order to examine the problem. Among the Task Force's accomplishments was the establishment of KASPER, the Kentucky All Schedule Prescription Electronic Reporting System.

KASPER was designed to stop the practice of ''doctor shopping,'' where abusers and dealers of illegally obtained prescription drugs visit multiple physicians in order to obtain multiple prescriptions. The success of KASPER has been impressive. In fact the program has been so successful that the Government Accounting Office described it as one of the Nation's best prescription drug abuse monitoring systems.

The result has been that it is now more difficult for people to fill multiple or fraudulent prescriptions in the Bluegrass State. However, ''Doctor Shoppers'' have circumvented KASPER by traveling to one of the seven States surrounding Kentucky. That is why without a national approach to this problem, Kentucky will not be able to truly succeed in its fight against prescription drug abuse.

For this reason, I salute Representative WHITFIELD for recognizing the strengths of KASPER and using it as a framework for a national system. That's why I have joined him as a cosponsor of this important legislation. I urge my colleagues to vote in favor of H.R. 3015 and help communities across America to combat the abuse of prescription drugs.

Mr. STUPAK. Mr. Speaker, as an original co-sponsor of the National All Schedules Prescription Electronic Reporting, or NASPER, Act of 2003, I rise today in strong support of its passage. The prescription drug abuse problem in our country has been well documented, and by passing the NASPER Act (H.R. 3015), Congress will take one step towards addressing the problem.

The NASPER Act will help ensure that Schedule II, and III, and IV controlled substances are used and prescribed safely and responsibly. The legislation will help States create electronic monitoring systems that will allow physicians and pharmacists to ensure that their patients are not being over-prescribed these powerful, yet potentially dangerous drugs. The legislation builds upon proven programs already started in 15 States, including Michigan. The Government Accounting Office (GAO) found in 2002 that these State programs are useful tools to help prevent the illegal distribution of these drugs.

However, the GAO also found a loophole that is often exploited. The States with electronic monitoring systems are often undermined by neighbor States who lack monitoring systems. The NASPER Act addresses this problem by allowing States to contact each other so that practitioners in one State can ensure that their patients are not receiving medications in another State.

I am proud to join with Congressmen PALLONE, WHITFIELD, STRICKLAND, and NORWOOD in providing leadership on this issue. I also applaud the tireless work of the American Society of Interventional Pain Physicians to combat the illegal use and inadvertent overprecribing of controlled substances and promote this legislation.

Mr. STRICKLAND. Mr. Speaker, I rise today to speak in support of H.R. 3015. I would first like to thank the Energy and Commerce Committee staff for their great work on this bill. I would also like to thank my colleagues Mr. PALLONE, Mr. NORWOOD, and Mr. WHITFIELD and their staff for their hard work. H.R. 3015 includes prescription monitoring provisions similar to those included in H.R. 3870, a bill Congressman NORWOOD and I introduced earlier this year. While, H.R. 3870 is a more comprehensive effort to close loopholes in current law that lead to prescription drug abuse, I am very pleased with the progress that has been made in H.R. 3015 on prescription drug monitoring.

I am particularly interested in deterring prescription drug diversion because of the immense problem of OxyContin abuse in many of the rural Appalachian Ohio counties I represent. I have received letters from constituents whose sons and daughters have died after taking a crushed OxyContin tablet. These tragedies cannot go unchecked. I am sure that OxyContin is not the only prescription drug that is abused in Appalachia, but its abuse is the most obvious example of the devastating consequences of prescription drug diversion.

H.R. 3015 would build on existing State prescription monitoring programs by providing grants through the Department of Health and Human Services for States to establish, operate, and update prescription monitoring programs. These grants are meant to ensure State monitoring systems can share information with other States, and our intention is to expand and improve current State monitoring programs without eliminating the work that, for example, Kentucky or Nevada has already done.

I believe that drugs like OxyContin are important advances in pain management, but we must work to stop the dangerous abuse of such drugs. H.R. 3015 is a positive step in that direction.

Again, I thank my colleagues and congratulate them on this compromise legislation.

Mr. PAUL. Mr. Speaker, I rise in opposition to H.R. 3015, the National All Schedules Prescription Electronic Reporting Act. This bill is yet another unjustifiable attempt by the Federal government to use the war on drugs as an excuse for invading the privacy and liberties of the American people and for expanding the Federal government's disastrous micromanagement of medical care. As a physician with over 30 years experience in private practice, I must oppose this bill due to the danger it poses to our health as well as our liberty.

By creating a national database of prescriptions for controlled substances, the Federal government would take another step forward in the war on pain patients and their doctors. This war has already resulted in the harassment and prosecution of many doctors, and their staff members, whose only ''crime'' is prescribing legal medication, including opioids, to relieve their patients' pain. These prosecutions, in turn, have scared other doctors so that they are unwilling to prescribe an adequate amount of pain medication, or even any pain medication, for their suffering patients.

Doctors and their staffs may even be prosecuted because of a patient's actions that no doctor approved or even knew about. A doctor has no way of controlling if a patient gives some of the prescribed medication away or consumes a prescribed drug in a dangerous combination with illegal drugs or other prescription drugs obtained from another source. Nonetheless, doctors can be subjected to prosecution when a patient takes such actions.

Applying to doctors laws intended to deal with drug kingpins, the government has created the illusion of some success in the war on drugs. Investigating drug dealers can be hard and dangerous work. In comparison, it is much easier to shut down medical practices and prosecute doctors who prescribe pain medication.

A doctor who is willing to treat chronic pain patients with medically justified amounts of controlled substances may appear at first look to be excessively prescribing. Because so few doctors are willing to take the drug war prosecution risks associated with treating chronic pain patients, and because chronic pain patients must often consume significant doses of pain medication to obtain relief, the prosecution of one pain doctor can be heralded as a large success. All the government needs to do is point to the large amount of patients and drugs associated with a medical practice.

Once doctors know that there is a national database of controlled substances prescriptions that overzealous law enforcement will be scrutinizing to harass doctors, there may be no doctors left who are willing to treat chronic pain. Instead of creating a national database, we should be returning medical regulation to local control, where it historically and constitutionally belongs. Instead of drug warriors regulating medicine with an eye to maximizing

prosecutions, we should return to State medical boards and State civil courts review that looks to science-based standards of medical care and patients' best interests.

H.R. 3015 also threatens patients' privacy. A patient's medical records should be treated according to the mutual agreement of the patient and doctor. In contrast, H.R. 3015 will put a patient's prescriptions on a government-mandated database that can be accessed without the patient's permission.

Instead of further eroding our medical privacy, Congress should take steps to protect it. Why should someone not be able to deny the government and third parties access to his medical records without his permission or a warrant?

One way the House can act to protect patients' privacy is by enacting my Patient Privacy Act (H.R. 1699) that repeals the provision of Federal law establishing a medical ID for every American. Under the guise of "protecting privacy," the Health and Human Services' so-called "medical privacy" regulations allow medical researchers, insurance agents, and government officials access to your personal medical records—without your consent. Congress should act now to reverse this government-imposed invasion of our medical privacy.

Please join me in opposing H.R. 3015—legislation that, if enacted, will make us less free and less healthy.

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

Mr. BARTON of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3015, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the establishment of a controlled substance monitoring program in each State.".

A motion to reconsider was laid on the table.

PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3858) to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

The Clerk read as follows:

H.R. 3858

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pancreatic Islet Cell Transplantation Act of 2004".

SEC. 2. ORGAN PROCUREMENT ORGANIZATION CERTIFICATION.

Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended by adding at the end the following:

"(c) Pancreata procured by an organ procurement organization and used for islet cell transplantation or research shall be counted for purposes of certification or recertification under subsection (b).".

SEC. 3. ANNUAL ASSESSMENT ON PANCREATIC ISLET CELL TRANSPLANTATION.

Section 429 of the Public Health Service Act (42 U.S.C. 285c–3) is amended by adding at the end the following:

"(d) In each annual report prepared by the Diabetes Mellitus Interagency Coordinating Committee pursuant to subsection (c), the Committee shall include an assessment of the Federal activities and programs related to pancreatic islet cell transplantation. Such assessment shall, at a minimum, address the following:

"(1) The adequacy of Federal funding for taking advantage of scientific opportunities relating to pancreatic islet cell transplantation.

"(2) Current policies and regulations affecting the supply of pancreata for islet cell transplantation.

"(3) The effect of xenotransplantation on advancing pancreatic islet cell transplantation.

"(4) The effect of United Network for Organ Sharing policies regarding pancreas retrieval and islet cell transplantation.

"(5) The existing mechanisms to collect and coordinate outcomes data from existing islet cell transplantation trials.

"(6) Implementation of multiagency clinical investigations of pancreatic islet cell transplantation.

"(7) Recommendations for such legislation and administrative actions as the Committee considers appropriate to increase the supply of pancreata available for islet cell transplantation.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Colorado (Ms. DEGETTE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to include extraneous material on the bill.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strongest possible support of H.R. 3858, the Pancreatic Islet Cell Transplantation Act of 2004, introduced by the gentleman from Washington (Mr. NETHERCUTT).

The Pancreatic Islet Cell Transplantation Act is short and simple. It requires the pancreata donated for the purposes of islet cell transplantation or research be counted for purposes of certification or recertification of organ procurement organizations. Islet cell transplantation is a procedure where islet cells are removed from a donor pancreas and transferred into another person. Once implanted, the beta cells in these islets begin to make and release insulin. H.R. 3858 will help to increase the number of pancreatic and other organ donations, expanding the capabilities of pancreatic islet cell research.

My family is very active in raising the awareness of diabetes. My father, Larry Barton, died of complications from diabetes, and my wife, Terry Barton, is executive director of the Tarrant County Chapter of the American Diabetes Association. So I know personally how excited people are about islet cell transplantation. It may help people with certain type 1 diabetes live without daily injections of insulin, which is very exciting. It is my hope that this legislation will help to speed this research forward.

Mr. Speaker, I cannot urge in any stronger possible terms that all Members support this legislation.

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

Ms. DEGETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today this body can greatly improve the lives of more than 1 million Americans who are affected by juvenile diabetes. The Pancreatic Islet Cell Transplantation Act addresses a significant problem by reducing the nonscientific barriers standing in the way of this promising treatment.

Pancreatic islet cell transplantation is a procedure that infuses new insulin-producing cells into an individual with juvenile diabetes. This procedure has now been performed in over 300 people in this country. The results are nothing short of miraculous. A majority of those islet cell transplantation recipients no longer need to inject themselves with insulin.

For a person with juvenile diabetes this change is life altering. It means no more needles and no more worry. It means the question of what to eat no longer requires calculation or cause for alarm. For those patients islet cell transplantation means freedom, and ultimately islet cell transplantation will be a cure for type 1 diabetes.

As we know too well, Mr. Speaker, living with diabetes is challenging. Insulin is not a cure. It is only a means of managing the disease, and it is more complicated by the difficulties of monitoring glucose levels. Very serious complications like blindness and kidney disease are not uncommon. In fact, a staggering number of patients with juvenile, or type 1, diabetes suffer from some type of complication. Every year 82,000 individuals lose their foot or leg to diabetes. Heart disease is the leading cause of diabetes-related deaths. And diabetes is the leading cause of new blindness in people 20 to 74 years old.

This bill, which I was proud to introduce with the gentleman from Washington (Mr. NETHERCUTT), who, unfortunately, cannot be here with us today, takes us one step closer to preventing these devastating complications. H.R. 3858 will help increase the supply of pancreata for islet cell transplantation and better coordinate Federal Government efforts and information. These

are narrow, yet essential, improvements to our health care system that may not only change the lives of people with juvenile diabetes but also will reduce costs in our health care system.

The total annual cost of diabetes in 2002 was estimated to be $132 billion. Of that, $23 billion was due to the cost care for complications of diabetes. This is exactly why we need to use new procedures like islet cell transplantation to improve lives and reduce the cost of health care in the United States.

We are at a time of extraordinary opportunity in the field of juvenile diabetes research, and pancreatic islet cell transplantation is just one of the new procedures that gives us great hope. The gentleman from Washington (Mr. NETHERCUTT) and I have been the co-chairs of the Congressional Diabetes Caucus for many years now, and we are pleased to say it is still the largest caucus in Congress. We have seen the technologies improve, and we have worked to improve the coordination and Federal support for diabetes programs. The Pancreatic Islet Cell Transplantation Act continues that work.

Like so many of my colleagues, I support improved scientifically based efforts that will improve patients' lives and even eradicate this disease. Since the science in this area is developing at a rapid pace, additional efforts are needed to ensure that Federal policies and regulatory actions support the momentum.

I want to add my thanks to the gentleman from Texas (Chairman BARTON) and for the gentleman from Michigan (Mr. DINGELL) as well as the Committee on Energy and Commerce staff on both sides of the aisle for their hard work and diligence on this and all of the health bills being considered today.

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Their leadership provides exactly the kind of bipartisan cooperation that we need to address significant issues like improving our health care system, that Congress faces today.

I also want to thank the volunteers of the Juvenile Diabetes Research Foundation and the American Diabetes Association. These two organizations have been tireless, and they are to be commended.

Finally, Mr. Speaker, I would like to thank you for all of your hard work in this area over the years.

Pancreatic islet cell transplantation is an incredible innovation in medicine. I urge all of my colleagues to support this bill.

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

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me in summary again commend the gentlewoman from Colorado (Ms. DEGETTE), the gentleman from Michigan (Mr. DINGELL) and all the folks on the minority side that worked with us on this. I want to thank again the gentleman from Washington (Mr. NETHERCUTT) for his work.

This bill is going to pass on suspension, which shows how noncontroversial and bipartisan this particular issue is. But this is a bill that is worthy of considerable celebration because if you have a family member that has diabetes and you have to watch and sometimes help them get their insulin injections, the ability to get an islet cell transplant revolutionizes their life. It is just amazing.

Our problem is that there just are not enough organ donations to make it possible to do this for many people. Hopefully, this legislation will make it possible to get more donations and, over time, perhaps even do the research that can result in being able to replicate the islet cells so that every diabetic in the country that wants one of these transplants can get that.

So I cannot say in stronger terms how happy I am to bring this to the floor, and I would urge unanimous adoption of the bill.

Mr. NETHERCUTT. Mr. Speaker, I rise in strong support of the Pancreatic Islet Cell Transplantation Act and urge my colleagues to pass this bill

As the parent of a daughter with Type 1, or juvenile diabetes, I can tell you that it is a terrible disease. People with diabetes must contend with daily insulin injections and blood tests to monitor glucose levels. Hanging above this constant management is the threatening cloud of complications, such as kidney failure, blindness or amputation that this disease so often brings.

The legislation that we consider today reflects an extraordinary opportunity in the field of juvenile diabetes research. Pancreatic islet transplantation has been hailed as the most important advance in diabetes research since the discovery of insulin in 1921. The procedure, which involves transplanting insulin-producing cells into an individual with juvenile diabetes, has been performed on over 300 individuals, and the majority of them no longer need to take insulin to stay alive. While significant research remains to be done to expand this procedure to all who suffer with juvenile diabetes, its promise is incredibly exciting for families like mine.

My bill seeks to remove some of the nonscientific barriers currently before the scientists racing to perfect this procedure. A shortage of donor pancreata is one of the major obstacles to higher transplant rates. In 2001, approximately 1,800 pancreata were donated and only 500 were available for islet cell transplantation and research. At the same time, more than one million people suffer from juvenile diabetes. Current Federal regulations do not credit organ procurement organizations (OPOs) for harvesting pancreases for islet cell transplantation toward their certification or recertification. The Pancreatic Islet Cell Transplantation Act alters these regulations to credit OPOs for pancreata used for islet cell transplantation or research.

This legislation provides help for an extremely promising procedure, that in turn offers a great deal of hope to the millions of Americans with juvenile diabetes. It gives me great pride to have introduced this bill, and I urge my colleagues to support this legislation.

Ms. DEGETTE. Mr. Speaker, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3858.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ASTHMATIC SCHOOLCHILDREN'S TREATMENT AND HEALTH MANAGEMENT ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2023) to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2023

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Asthmatic Schoolchildren's Treatment and Health Management Act of 2004''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Asthma is a chronic condition requiring lifetime, ongoing medical intervention.

(2) In 1980, 6,700,000 Americans had asthma.

(3) In 2001, 20,300,000 Americans had asthma; 6,300,000 children under age 18 had asthma.

(4) The prevalence of asthma among African-American children was 40 percent greater than among Caucasian children, and more than 26 percent of all asthma deaths are in the African-American population.

(5) In 2000, there were 1,800,000 asthma-related visits to emergency departments (more than 728,000 of these involved children under 18 years of age).

(6) In 2000, there were 465,000 asthma-related hospitalizations (214,000 of these involved children under 18 years of age).

(7) In 2000, 4,487 people died from asthma, and of these 223 were children.

(8) According to the Centers for Disease Control and Prevention, asthma is a common cause of missed school days, accounting for approximately 14,000,000 missed school days annually.

(9) According to the New England Journal of Medicine, working parents of children with asthma lose an estimated $1,000,000,000 a year in productivity.

(10) At least 30 States have legislation protecting the rights of children to carry and self-administer asthma metered-dose inhalers, and at least 18 States expand this protection to epinephrine auto-injectors.

(11) Tragic refusals of schools to permit students to carry their inhalers and auto-injectable epinephrine have occurred, some resulting in death and spawning litigation.

(12) School district medication policies must be developed with the safety of all students in mind. The immediate and correct use of asthma inhalers and auto-injectable epinephrine are necessary to avoid serious respiratory complications and improve health care outcomes.

(13) No school should interfere with the patient-physician relationship.

(14) Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within

minutes. Anaphylaxis occurs in some asthma patients. According to the American Academy of Allergy, Asthma, and Immunology, people who have experienced symptoms of anaphylaxis previously are at risk for subsequent reactions and should carry an epinephrine auto-injector with them at all times, if prescribed.

(15) An increasing number of students and school staff have life-threatening allergies. Exposure to the affecting allergen can trigger anaphylaxis. Anaphylaxis requires prompt medical intervention with an injection of epinephrine.

SEC. 3. PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.

(a) AMENDMENTS.—Section 399L of the Public Health Service Act (42 U.S.C. 280g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.—

''(1) PREFERENCE.—The Secretary, in making any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies the following:

''(A) IN GENERAL.—The State must require that each public elementary school and secondary school in that State will grant to any student in the school an authorization for the self-administration of medication to treat that student's asthma or anaphylaxis, if—

''(i) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

''(ii) the student has demonstrated to the health care practitioner (or such practitioner's designee) and the school nurse (if available) the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed;

''(iii) the health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

''(iv) the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan formulated under clause (iii) and other documents related to liability.

''(B) SCOPE.—An authorization granted under subparagraph (A) must allow the student involved to possess and use his or her medication—

''(i) while in school;

''(ii) while at a school-sponsored activity, such as a sporting event; and

''(iii) in transit to or from school or school-sponsored activities.

''(C) DURATION OF AUTHORIZATION.—An authorization granted under subparagraph (A)—

''(i) must be effective only for the same school and school year for which it is granted; and

''(ii) must be renewed by the parent or guardian each subsequent school year in accordance with this subsection.

''(D) BACKUP MEDICATION.—The State must require that backup medication, if provided by a student's parent or guardian, be kept at a student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

''(E) MAINTENANCE OF INFORMATION.—The State must require that information described in subparagraphs (A)(iii) and (A)(iv) be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

''(3) DEFINITIONS.—For purposes of this subsection:

''(A) The terms 'elementary school' and 'secondary school' have the meaning given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965.

''(B) The term 'health care practitioner' means a person authorized under law to prescribe drugs subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

''(C) The term 'medication' means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act and includes inhaled bronchodilators and auto-injectable epinephrine.

''(D) The term 'self-administration' means a student's discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to a prescription or written direction from a health care practitioner.''.

(b) APPLICABILITY.—The amendments made by this section shall apply only with respect to grants made on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 4. SENSE OF CONGRESS COMMENDING CDC FOR ITS STRATEGIES FOR ADDRESSING ASTHMA WITHIN A COORDINATED SCHOOL HEALTH PROGRAM.

The Congress—

(1) commends the Centers for Disease Control and Prevention for identifying and creating ''Strategies for Addressing Asthma Within a Coordinated School Program'' for schools to address asthma; and

(2) encourages all schools to review these strategies and adopt policies that will best meet the needs of their student population.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2023, as amended.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself of such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act, sponsored by the Energy and Commerce subcommittee chairman, the gentleman from Florida (Mr. STEARNS).

Over the past 15 years, the number of Americans diagnosed with asthma has nearly doubled to an estimated 17 million people, including 5 million children. The Federal Government has invested significant resources to strengthen and improve asthma research and prevention activities. The Department of Health and Human Services fiscal 2005 budget request includes approximately $321 million for direct asthma programs.

When asthma strikes, airways in the lungs become inflamed and constricted, causing coughing, wheezing and difficulty breathing. Each year, nearly half a million Americans are hospitalized and, unfortunately and sadly, more than 5,000 die from asthma. Several medications, when properly administered in a timely fashion, are now available to treat asthma and/or anaphylaxis.

Unfortunately, some schools do not permit students to self-administer medication for asthma even though the parent or guardian of the student has authorized the use of the medication and it is recommended by a health care provider, resulting in an unnecessary delay of potentially life-saving treatments.

H.R. 2023 directs the Secretary of Health and Human Services to give preference when making asthma-related grants to States that require schools to allow students to self-administer medications. H.R. 2023 does not federally mandate that States allow children to carry prescribed asthma medication in schools. The intent of the bill is to incentivize States to do the right thing by granting preference for asthma-related health program dollars to the States that have regulations that put the parents' and the children's safety first.

Mr. Speaker, I can say, as one of the founding members of Asthma Awareness Day here on Capitol Hill, I am very proud that now as chairman of the Committee on Energy and Commerce, with the strong support and leadership of the gentleman from Florida (Mr. STEARNS), we can bring this bill forward. I would urge its adoption.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to manage the bill to the subcommittee chairman, the gentleman from Florida (Mr. STEARNS).

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

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, millions of Americans, including my wife, suffer from asthma. In a classroom of 30 children, on the average, three are likely to have asthma. The disease killed more than 200 American children in the year 2000. Some States, however, prohibit children from carrying emergency asthma medicine to school. Some of these prohibitions occur despite the fact that parents have authorized the medication's use. This creates an unnecessary delay in administering these medications, when it only takes seconds for an asthma attack sometimes to turn deadly.

The ASTHMA Act, H.R. 2023, encourages States to modernize their laws. I commend my friend the gentleman from Florida (Mr. STEARNS) for his leadership on this legislation and my friend, the gentleman from New York (Mr. TOWNS), for introducing the proposal.

The Centers for Disease Control and Prevention has done terrific work in examining and recommending strategies for combating asthma in school-

based situations and has laid out six strategies for addressing asthma in schools. This bill also commends those efforts.

Allowing children to self-administer their asthma medication will save lives and will make our schools healthier and safer. I am pleased to support this important legislation.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud also to author this bill, H.R. 2023, the Asthmatic Student Treatment and Health Management Act, ASTHMA, with my colleague, the gentleman from Rhode Island (Mr. KENNEDY). He and I have been working together on this for some time, and we are pleased it came to the House floor today. It has been a long haul.

I also want to thank the gentleman from Texas (Chairman BARTON) for his early support and providing the leadership in this whole series of legislative initiatives. We introduced this bill, the gentleman from Rhode Island (Mr. KENNEDY) and I, in 2003 on Asthma Awareness Day. Frankly, I think it has been building momentum ever since.

This bill provides incentives for States to guarantee students can carry and use prescribed asthma medication while they are at school. It is not a mandate, and, frankly incurs no new spending.

The ''zero tolerance'' movement of the 1980s and 1990s had the unintended consequence of depriving students of immediate access to their prescribed medication. Often there is a signaling effect in the States or industry merely from the existence of Federal legislation, sort of a chilling effect. I think our bill elevated the conversation here in the United States in school boards and State legislatures.

Because of this discussion, we now have 31 ''asthma-friendly'' States, such as my own State of Florida. Furthermore, of these 31, 19 extend their protection even further to anaphylaxis medication, like epinephrine autoinjectors. On Asthma Awareness Day, May 7, 2003, when we first started this, at that time there were only 20 States, and only nine with this extra protection.

As mentioned earlier, over 6.3 million children under the age of 18 suffer from asthma, probably more than that when you realize a lot of people do not even admit to having asthma. It is the most common cause of missed school days, 14 million annually. It costs us tremendously in lost time, learning, lost productivity and earnings of parents, and medical expenses, including costly emergency room visits, not to mention the enormous amount of stress for people involved, the parents and children.

September 22, 2003, a Newsweek magazine article cover story, as you will remember, said, ''Your Child's Health and Safety: The Latest on Allergies and Asthma.'' ''The Allergy Epidemic'' pointed out, ''We have conquered most childhood infections, but,'' and this is what is important, ''extreme reactions to everyday substances still pose a new threat.''

We read about David Adams of Georgia, whose acute allergic reaction to peanuts was stanched by a quick epinephrine injection, ''never sets foot outside his home without an emergency supply of epinephrine.''

This ''Fighting for Air'' article states, ''Asthma among children has more than doubled over the past 20 years,'' and at Chicago's Hughes Elementary School, ''at this school of 500 students, an astonishing one-third have asthma.'' Second grader Zeron Moody ''just wants to play without gasping'' for air.

When asthma attacks, every minute counts. Sadly, there have been tragedies when a school child is prevented from swift access to his or her asthma medication. A student who must go to the nurse's office, even if there is a school nurse, to get his or her prescribed, life-saving medication, just may run out of time for the initial treatment that could save his or her life.

There is a 2002 article in a magazine called Reason entitled ''Asthma Attack: When Zero Tolerance Collides with Children's Health.'' I just want to share the horror of a 1991 death of a New Orleans high school student, Catrina Lewis, who was simply delayed by security guards before being allowed to get to her inhaler from the office. When finally it did not help, she asked the school staff to call an ambulance. Instead, they spent a half-hour trying to call her mother first.

Catrina's sister, another student, finally called 911, but unfortunately, tragically, the emergency help arrived too late. Catrina's death resulted in more than heartbreak, but a legal judgment against the principal, the counselor and school board. Obviously, in this case no one comes out the winner.

Medical providers prescribe safe, legal treatment, along with instructions on how to self-administer to patients diagnosed with asthma and severe allergies. Along with parental support, it just makes good medical sense to allow a student to treat him or herself and avoid this possible tragedy in the classroom.

I would like to remind young people with asthma in this country that throughout history there have been people we know or believe had asthma, but they still accomplished great things; not because they had asthma, but because they did not let it stop them from finding greatness, achievement.

In the past 3 years, I have shared stories about President Theodore Roosevelt and the Italian composer, priest and musician, Antonio Vivaldi. In Congress, for Asthma Awareness Day we hosted famous athletes who currently have and suffer from asthma. But, frankly, they do not let it slow them down, and they still pursue their career: Jerome Bettis of the Pittsburgh Steelers, who just last Sunday scored two touchdowns, I say to my colleagues; and Jackie Joyner-Kersee, Olympic heptathlete, most of us do not know what that is, but that is an individual that competes in seven track and field events.

I would also like to point out another sober but timely point that there may arise emergencies where a schoolchild with asthma simply, simply needs to have his or her vital medication close at hand and not locked in a desk drawer across the campus. We sadly just never know these days when a homeland security event might call for a lockdown at a school, for students to ''shelter in place.''

If this happens, that is why this bill is important. We want every child to have his or her lifesaving medication on their person and not in a shelter-in-place, in a lockdown position.

In conclusion, Mr. Speaker, H.R. 2023 is an important step for the health of school children, for parental rights, and for trust in the physician-patient-parent relationship and judgment.

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Again, I appreciate the support of my colleague, the gentleman from Rhode Island (Mr. KENNEDY), and I appreciate the gentleman from Texas (Chairman BARTON) for moving this bill, and the gentleman from Florida (Chairman BILIRAKIS) for marking it up in the Subcommittee on Health. We made great progress. We need the Senate to follow through, and we need to pass this bill today, and I encourage its swift passage in the Senate.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from Rhode Island (Mr. KENNEDY), my friend.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today as the lead Democratic cosponsor of the ASTHMA Act of 2003, and I want to acknowledge my good friend and partner, the gentleman from Florida (Mr. STEARNS), for his excellent leadership on this matter. As my colleagues have just heard him speak, he has spoken very eloquently to the case that we are making through this legislation.

I think he illustrated better than anything else the reason why we are pushing this legislation when he talked about the story of Catrina Lewis. We in Rhode Island, and those stories are happening all over the country; in Rhode Island, we have a family, the father, Walter Stone, and the mother, Lynn Stone, lost their daughter, Morgan. She was a mild asthmatic. She was attending college and was killed when her asthma overcame her and she was not able to gain access to her medications.

This is a life-and-death issue. Unfortunately, many States have made it a liability for those students to carry their inhalers to school when those students need their medications. If

they have not registered them in the nurse's office, for example, they are subject to all kinds of punishment. Then again, if they need their medication, as those of us who have asthma, like myself, know very well, it can come on you very quickly; and if you do not have your medication available, you can have a much worse time of it. Tragically, as we have seen in Catrina Lewis's case and in Morgan Stone's case, it can be fatal.

The gentleman from Florida (Mr. STEARNS), my good colleague, was talking about the fact that we have 5,000 people die every year of asthma. This is quite extraordinary when people consider that asthma must not be that big a deal because when people suffer from asthma, it does not look like they are suffering. That is the biggest impediment for people in this country when approaching asthma, the fact that most people, when seeing an asthmatic, do not see the suffering that an asthmatic goes through when they are having an asthma attack, or do not see the suffering that someone is going through when they have an anaphylactic shock attack because of allergies to food.

Many times people do not take this seriously, and it is for just that reason that we need to pass this legislation. It is because many school districts do not take this seriously that we have had the situation where too many young people have had to go through unspeakable suffering as a result of an asthma attack that could have been treated, or they have even suffered death because of the fact that they did not have access to their medications. That is why we need to pass this legislation.

We have heard eloquently from the gentleman from Florida (Mr. STEARNS) about the statistics. But the fact remains, with all of the statistics, it is important that people keep in mind that asthma is the single leading cause of missed school days in this country.

Unfortunately, more and more children suffering from asthma are uninsured and do not have access to medications, so we also need to talk about that. Unfortunately, that cannot be incorporated in this legislation, but I know the gentleman from Florida (Mr. STEARNS) and I both will work hard to make sure that asthma medication is available to our children who are not otherwise covered by health insurance. And the reason for that is simple: Our children are making the emergency room their primary source of medical care when they have asthma attacks and, as any physician or parent can tell us, this is the worst kind of health care policy we can have in this country.

We need to do more through the Centers for Disease Control to alert families about asthma and to educate families about how to help them manage their child's asthma if their children have asthma. These things can make an enormous difference in a family's life, and certainly those are also objectives that we need to follow as well.

Mr. Speaker, I know the gentleman from Florida (Mr. STEARNS) and I both owe a special debt of gratitude to Nancy Sanders, who is President and founder of the Allergy and Asthma Network of Mothers of Asthmatics. She has really encapsulated all of these issues through her advocacy, and she speaks on behalf of all mothers of asthmatics when she testifies as she does, and her partner in this effort, Marissa Magnetti, who has also worked very hard to get this bill to the floor. I want to thank both of them for their good work in getting this bill to the floor.

Mr. Speaker, I want to thank once again my colleagues in the Congress who have been helping us, the gentleman from Texas (Mr. BARTON) for his work in passing this in the committee; and of course, I want to thank the gentleman from Florida (Mr. STEARNS) for his good work and partnership on this legislation.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague also for mentioning Nancy Sanders, because I was going to save the best for last, Nancy Sanders, the director of Mothers of Asthmatics, Allergy and Asthma Network; without her energy and her time, we probably would not be here today.

So in large measure, this is a case where government is acting, Congress is acting, but it is because of her and all her volunteers and supporters have made this a major objective and mission for their actions to try and bring to bear all of the resources of the private sector so that we in the government are aware of this problem.

I know from some of the hearings that we have had, that both the gentleman from Rhode Island (Mr. KENNEDY) and I have shared, and we have had many panels come out and speak, all of this was organized by Nancy Sanders. So it is to her credit this bill is on the floor today, because of her hard work.

So I appreciate the gentleman from Rhode Island (Mr. KENNEDY) bringing that to the attention of the floor, and I want to echo that, how important it is to have Nancy Sanders.

Mr. KENNEDY of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank my colleague for yielding.

She is working, as all of us are, on a number of these other agenda items in helping to assist those who suffer from asthma and allergy attacks. We have worked on more notification for families when purchasing food products to know what is in those food products so that they can be alerted to any food type that may trigger anaphylactic shock. And I know that these and many other issues are ones that we are going to need to continue to work for in the years ahead.

I thank my colleague for his effort on this and many others of these issues.

Mr. STEARNS. Mr. Speaker, reclaiming my time, I would just give a concluding remark. Not often when we come to the House floor do we have legislation that will save lives. I had this experience when I was working on the defibrillator bill, which the gentleman from Ohio (Mr. BROWN) is going to offer later on, which is another one of those bills that will actually save lives. And this is one that will save lives, not to mention the huge amount of stress that will be alleviated by parents' knowing that their children will have their medication with them at school.

Ms. JACKSON-LEE of Texas. Mr. Speaker, H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act of 2003, provides incentives to States to help guarantee the rights of students to carry and use prescribed lifesaving asthma and anaphylaxis medications while at school.

Many students attend schools in States where State and/or local statute prohibits them from carrying their prescribed asthma medication on their person. Worse, anaphylaxis, including the loss of breathing, can accompany a severe asthmatic attack. In an onset of asthma or an anaphylactic attack, every minute counts, and a schoolchild who has to go to a teacher's desk or school nurse's office to get his or her asthma medication may not have sufficient time to initiate treatment.

I am pleased to be a cosponsor of this legislation, and just in the past year and a half since we introduced H.R. 2023, many States are passing laws protecting these students. We now have 31 States that permit students to possess and self-administer asthma medication, such as albuterol inhalers. Of these 31, 19 extend that protection even further to include anaphylaxis medication, such as epinephrine auto-injectors. A year and a half ago, there were only 20 States with statutes that protected students to possess and self-administer inhalers, and only 9 of those allowed permission for epinephrine auto-injectors. Great progress has been made, and your vote for H.R. 2023 can only encourage further success.

In my State of Texas, approximately 900,000 adults, or 6 percent of the population, currently have asthma. Children are particularly hard hit in having asthma—which really can take away the joy of being a child.

H.R. 2023 encourages states to pass asthma-friendly legislation, without new spending, without mandates. This bill directs the Secretary of Health and Human Services to give preference to a State's asthma and anaphylaxis medication statutes when awarding grants for asthma-related programs under its Department (such as Centers for Disease Control and Prevention studies). It offers a gentle incentive for States to take this easy, healthy step for its young citizens. My State of Texas could greatly benefit from such an incentive, as we have a high asthma rate and still do not guarantee the rights of children to carry their own asthma medication.

Mr. ENGEL. Mr. Speaker, I rise in support of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004. As a cosponsor of this important legislation, I look forward to its quick enactment. Asthma has had a tremendous impact on our

Nation's health. I represent the Bronx, Westchester and Rockland County in New York, and our community has been hit very hard by asthma, especially our children. My family has experienced first-hand the effects of asthma. My wife has asthma and two of my kids do as well. So I know how important it is that people, especially children, have access to care and have the medicine they need when they need it.

According to the NYC Department of Health in the Bronx, about 25 percent of children in the Bronx have asthma, as opposed to 15 percent nationwide. Hospitalization rates for children are around ten times higher than the national average. The Bronx, in particular, leads New York City in asthma-related hospitalizations and deaths. Audrey Dregante, a Nurse Practitioner at Bronx Lebanon Hospital Pediatric Asthma Center has stated that ''Pediatric Asthma is an epidemic in the Bronx.''

There are many factors contributing to asthma that can easily be addressed and would save lives and greatly enhance the quality of life for so many suffering with asthma. Some of the factors contributing to the disease are inadequate housing conditions, such as mold in homes, dust mites and insects, and the lack of proper ventilation. The poor are less likely to have health care and use emergency room care as their primary care provider, and are not getting the proper treatment. Low-birth weight babies are surviving in greater numbers and problems with lung development may be leading to the rise in asthma cases. Early diagnosis and treatment is critical in these instances, as well as pre-natal care for the poor. The increasing amounts of pollution and congestion in urban areas caused by traffic and diesel-powered trucks and buses increase the risk for asthma.

Children in particular have a difficult time with asthma and, as we know, proper treatment and control of the disease in crucial. the legislation before us today seeks to rectify one situation that is preventing children from even carrying their asthma medication. Amazingly, many states do not allow kids to self-administer their asthma medications in school, which can lead to severe conditions if proper treatment is not available in time. New York does allow kids to carry and administer their asthma medication. I believe it is irrational and irresponsible to prohibit children from having their medication readily available. H.R. 2023 would encourage schools to allow children to carry their asthma medication by giving those schools preference when awarding public health and asthma-related grants. I think this is positive legislation that will encourage school districts to allow their children to carry and self-administer their asthma medicine, which will improve their condition and could save their lives. I urge my colleagues to support this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act. Nearly one-third of all people with asthma in our Nation are children under the age of 18, according to the American Lung Association. This figure translates to more than 6.3 million children. Asthma is now the most common, serious, chronic disease among children, accounting for 14 million absences from school each year.

I commend this legislation and believe it is great to allow students to self-administer medication to treat that student's asthma. We are encouraging the child to control their condition with correct management of it as well as giving them the responsibility to go get their nebulizer for a breathing treatment or get their inhaler when they know they need it. However, we still need to do more for our asthmatic children through education and outreach. Doctors say that asthma is a disease that can be managed, treated and prevented. Yet across our country, in cities like Chicago, there are no centralized asthma programs, and many States do not keep an up-to-date count of how many children have the disease.

We have seen asthma continue to strike black children the hardest, especially those who live in low-income areas. The 2002 National Health Interview Survey, a project of the CDC, found that 12 percent of all children under age 18 were asthmatic, and half had suffered an attack in the previous year. Black and low-income families get it far more often: 18 percent of black children had been diagnosed with asthma, and 9 percent had suffered attacks, versus 10 and 4 percent for Latino children, and 11 and 5 percent for whites. Due to a lack of health care, crowded housing, and more exposure to asthma triggers such as cockroach feces and dust mites, the asthma rate was also higher for children from families whose incomes were less than $20,000 a year.

Although, most children have mild to moderate problems, and their illness can be controlled by treatment at home, too many of our asthmatic children are ending up in our emergency rooms. The CDC reports that in 1999, 658,000 pediatric emergency room visits were due to asthma. The estimated annual rate for emergency room visits among children 5 years old or younger is 137.1 per 10,000 persons—the highest rate of all age groups. Asthma cost more than $4.6 billion in medical care and time lost from school or work. African Americans have nearly four times the asthma related emergency room visits as whites and are more than three times as likely than whites to be hospitalized for asthma.

Mr. Speaker, unfortunately, Chicago, where I reside, is commonly called an epicenter of the Nation's asthma epidemic. I believe that my State of Illinois, Chicago and our Congress need to encourage that more is done to help our asthmatic children, like education and, as the doctors suggest, managing, treating and prevention of this disease as a way to keep more of our kids out of the emergency rooms.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleague Congressman CLIFF STEARNS of Florida in the passage of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004. Mr. Speaker, as a medical doctor I know of nothing more important to a patient than the ability to access his/her medication. The bill before us today underscores this critical component in the continuum of care as it relates to asthma and school-age children.

I am grateful to Mr. STEARNS for introducing this important piece of legislation and will be working forward to its impact in African American and medically underserved communities. As you know, Mr. Speaker, asthma is the 6th-ranking chronic condition in the U.S., and the leading serious chronic illness of children in the U.S., and has a significant impact on African Americans. Not only do African Americans have a higher asthma prevalence rate than Caucasians, but they are also more likely to be hospitalized or die due to asthma.

Data released in 2003 by the Centers for Disease Control and Prevention stated that the lifetime prevalence rate is 29 percent higher in African Americans than in Caucasians. The asthma attack prevalence rate in African Americans is 37 percent higher than in Caucasians, and the asthma attack prevalence rates in African-Americans are highest among children under the age of 5.

The CDC also noted that African Americans have nearly four times the asthma-related emergency room visits than Caucasians and that African Americans are more than three times more likely than Caucasians to be hospitalized for asthma. Finally, African Americans are three times more likely than Caucasians to die from asthma and more African American women die from asthma than any other group.

A recent study by Guido R. Zanni and Jeannette Wick, entitled Counseling Inner-City Youth with Asthma, found that approximately 1 in 13 school-age children is affected—an increase of 72.3 percent since the 1980s. Asthma-related absenteeism amounted to 14 million missed school days in 2000.

The researchers noted that the inner cities have unique challenges with asthma-causing agents: Tobacco and cooking smoke, indoor allergens, bioaerosols and other air pollutants, respiratory infections, and stress. Up to 59 percent of inner-city pediatric asthma sufferers live in homes with environmental tobacco smoke. Sensitivity to allergens is typical of pediatric asthma. Most inner-city children (94 percent are highly sensitive to inhalant allergens, and 76 percent are sensitive to 3 or more allergens. Approximately 36 percent have cockroach sensitization. Combining cockroach sensitization with regular exposure significantly increases asthma-related hospitalizations, emergency room visits, school absenteeism, and lost sleep.

The researchers noted some of the causes of nonadherence to asthma medication regimens by school-age children are created by parental health beliefs, the use of multiple care providers, the lack of a comprehensive asthma-management plan, psychosocial stressors, inadequate attention to triggers and early warning signals, and inadequate environmental allergen control. They also noted that many schools have a zero-tolerance drug policy, forcing students to smuggle and take their asthma medications discreetly or leave their medications at home.

Mr. Speaker, I believe that H.R. 2023 is a step in the right direction towards eliminating health disparities by making grants available to States, with a preference to States that require public elementary and secondary schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis under specified conditions.

Again, Mr. Speaker, I believe that this bill is a measure that safeguards the health of children with asthma and urge my colleagues to support it.

Mr. ENGEL. Mr. Speaker, asthma has had a tremendous impact on our Nation's health. I

represent the Bronx, Westchester and Rockland County in New York, and we have been hit very hard by asthma, especially our children.

According to the NYC Department of Health, in the Bronx about 25 percent of children have asthma, as opposed to 15 percent Nationwide; hospitalization rates for children are around ten times higher than the national average; and the Bronx, in particular, leads New York City in asthma-related hospitalizations and deaths. Audrey Dregante, a nurse practitioner at Bronx Lebanon Hospital, Pediatric Asthma Center has stated that "Pediatric Asthma is an epidemic in the Bronx."

There are many factors contributing to asthma that can easily be addressed and would save lives and greatly enhance the quality of life for so many suffering with asthma. Many of these factors have to do with the economic status of those with asthma and the fact that they are not educated on the treatments available. Some of the factors contributing to the disease are inadequate housing conditions—impoverished conditions such as mold in homes, dust mites and insects, and the lack of proper ventilation; the poor are less likely to have health care and use emergency room care as their primary care provider and are not getting the proper treatment; low-birth weight babies are surviving in greater numbers, and problems with lung development may be leading to the rise in asthma cases—early diagnosis and treatment is critical in these instances, as well as pre-natal care for the poor; and the increasing amounts of pollution and congestion in urban areas caused by traffic and diesel-powered trucks and buses.

Children in particular have a difficult time with asthma and, as we know, proper treatment and control of the disease is crucial. The legislation before us today seeks to rectify one situation that is preventing children from even carrying their asthma medication. Amazingly, many States do not allow kids to self-administer their asthma medications in school, which can lead to severe conditions if proper treatment is not available in time.

New York does allow kids to carry and administer their asthma medication. I believe it is irrational and irresponsible to prohibit children from having their medication readily available. H.R. 2023 would encourage schools to allow children to carry their asthma medication by giving those schools preference when awarding public health and asthma-related grants.

I think this is positive legislation that will encourage school districts to allow their children to carry and self-administer their asthma medicine, which will improve their condition and could save their lives. I urge my colleagues to support this legislation.

Mr. STEARNS. Mr. Speaker, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2023, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 4555) to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards, as amended.

The Clerk read as follows:

H.R. 4555

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mammography Quality Standards Reauthorization Act of 2004''.

SEC. 2. TEMPORARY RENEWAL AND LIMITED PROVISIONAL CERTIFICATE.

Section 354 of the Public Health Service Act (42 U.S.C. 263b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ''or a temporary renewal certificate'' after ''certificate''; and

(ii) in clause (i), by striking ''subsection (c)(1)'' and inserting ''paragraphs (1) or (2) of subsection (c)'';

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting ''or a limited provisional certificate'' after ''certificate''; and

(ii) in clause (i), by striking ''subsection (c)(2)'' and inserting ''paragraphs (3) and (4) of subsection (c)''; and

(C) in the flush matter at the end, by striking ''provisional certificate'' and inserting ''temporary renewal certificate, provisional certificate, or a limited provisional certificate''; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (4); and

(B) by inserting after paragraph (1) the following:

''(2) TEMPORARY RENEWAL CERTIFICATE.—The Secretary may issue a temporary renewal certificate, for a period of not to exceed 45 days, to a facility seeking reaccreditation if the accreditation body has issued an accreditation extension, for a period of not to exceed 45 days, for any of the following:

''(A) The facility has submitted the required materials to the accreditation body within the established time frames for the submission of such materials but the accreditation body is unable to complete the reaccreditation process before the certification expires.

''(B) The facility has acquired additional or replacement equipment, or has had significant personnel changes or other unforeseen situations that have caused the facility to be unable to meet reaccreditation timeframes, but in the opinion of the accreditation body have not compromised the quality of mammography.

''(3) LIMITED PROVISIONAL CERTIFICATE.—The Secretary may, upon the request of an accreditation body, issue a limited provisional certificate to an entity to enable the entity to conduct examinations for educational purposes while an onsite visit from an accreditation body is in progress. Such certificate shall be valid only during the time the site visit team from the accreditation body is physically in the facility, and in no case shall be valid for longer than 72 hours. The issuance of a certificate under this paragraph, shall not preclude the entity from qualifying for a provisional certificate under paragraph (4).''.

SEC. 3. NATIONAL ADVISORY COMMITTEE.

Section 354(n) of the Public Health Service Act (42 U.S.C. 263b(n)) is amended—

(1) in paragraph (2), by striking subparagraph (C) and all that follows and inserting the following:

''(C) other health professionals,

whose clinical practice, research specialization, or professional expertise include a significant focus on mammography. The Secretary shall appoint at least 4 individuals from among national breast cancer or consumer health organizations with expertise in mammography, at least 2 industry representatives with expertise in mammography equipment, and at least 2 practicing physicians who provide mammography services.''; and

(2) in paragraph (4), by striking ''biannually'' and inserting ''annually''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Subparagraphs (A) and (B) of section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2)(A) and (B)) are amended by striking ''2002'' each place it appears and inserting ''2007''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4555, the Mammography Quality Standards Act. I want to commend my good friend and ranking minority member, the gentleman from Michigan (Mr. DINGELL) for bringing the bill forward.

It is particularly fitting that the House is considering this bill today, as the month of October is formally recognized as National Breast Cancer Awareness Month. It is estimated that this year over 200,000 women will be diagnosed with breast cancer. Like many other diseases, early detection of breast cancer is critical to saving lives. Right now, mammograms are the best screening tool available to women to help detect breast cancer at an early age.

In 1992, Congress enacted the Mammography Quality Standards Act to ensure that all women have access to quality mammography for the detection of breast cancer in its earliest, most treatable stages. The MQSA provides that screening and diagnostic services must be accredited and certified by the Food and Drug Administration. H.R. 4555 reauthorizes the Act through fiscal year 2007.

The bill includes a new provision to permit the Secretary of Health and Human Services to issue a temporary renewal certificate or a limited provisional certificate to any facility seeking reaccreditation under MQSA. The legislation also permits the Secretary to appoint individuals with expertise in

mammography equipment to the National Mammography Quality Assurance Advisory Committee and grants the advisory committee greater flexibility in how many times the committee must meet annually.

Mr. Speaker, this is a good piece of legislation and I would encourage my colleagues to support it.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would like to thank the gentleman from Texas (Chairman BARTON) for his good work on this legislation, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Florida (Chairman BILIRAKIS) for offering this legislation reauthorizing the Mammography Quality Standards Act of 1992.

The gentleman from Michigan (Mr. DINGELL) pioneered this important legislation a dozen years or so ago. By increasing the breast cancer early detection rate, this legislation has undoubtedly contributed to the battle against this deadly disease.

Breast cancer is the top cancer threat for American women. This year alone, in our country, almost 216,000 women will be diagnosed with breast cancer, and more than 40,000 will lose their lives from it.

Accurate reading of mammograms is essential to early detection of breast cancer. Mammography has increased the survival rate for women in their 40s by 16 percent.

Over a decade ago, Congress recognized the importance of high-quality mammography screening by passing the Mammography Quality Standards Act. This act was designed to ensure that mammography is safe and reliable and that breast cancer is detected during its most treatable stages. This act established national standards for mammography facilities, for personnel, including doctors who interpret mammograms, for equipment, and for operating procedures.

This legislation today, H.R. 4555, ensures that American mammography providers continue to be held to high standards and that mammography continues to become a safer, more accurate tool for detecting breast cancer. It makes sense to update and extend this program to make certain we are fighting breast cancer as early as possible and as accurately as possible.

I am pleased to support this important legislation.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 4555, the Mammography Quality Standards Reauthorization Act of 2004. I am proud to have introduced this bill, and proud to have helped author the original Mammography Quality Standards Act which has made a major contribution to improving the quality of mammograms.

Just a few months ago, the Institute of Medicine (IOM) published a detailed reported entitled: "Saving Women's Lives, Strategies for Improving Breast Cancer Detection and Diagnosis." According to the IOM, "[m]ammography is a safety net that saves lives each year, . . . and although mammography saves lives, it is not perfect." The IOM report noted that many women who would benefit from mammography do not undergo regular screening and others who do undergo regular screening develop breast cancers that were not detected by their mammography exam. While the report notes that progress has been made in reducing mortality from breast cancer, it is still the second leading cause of death for women.

While research will hopefully lead us to improved techniques for detecting and treating breast cancer, another IOM study entitled: "Mammography and Beyond: Developing Technologies for Early Detection of Breast Cancer," concluded that mammography, while not perfect, is still the best choice for screening the general population to detect breast cancer at early and treatable stages. To be sure, there are important issues regarding quality and access with respect to screening and treatment services, and work on those will continue.

This legislation is almost identical to S. 1879, a bill introduced by Senator MIKULSKI that has already been passed by the Senate. The only substantive difference is the authorization period. Our bill extends the authorization period through FY 2007, two years longer than the Senate bill. But I support a timely completion of various mammography issue studies requested by Senator MIKULSKI, and I look forward to working with her, Chairman BARTON, my other colleagues, and stakeholders, including the Susan G. Komen Foundation, to bring an MQSA reauthorization bill to the President's desk as quickly as possible.

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of the Mammography Quality Standards Act. It is truly fitting for the House to pass a reauthorization of MQSA during October, which is Breast Cancer Awareness Month. This year, more than 215,000 individuals will learn that they have breast cancer. Hopefully, many of these will be early diagnoses, detected by mammograms that have proven time and again to be the most important tool for early detection.

Thanks to the efforts of HHS, the FDA and private advocacy groups, such as the Susan G. Komen Foundation, an estimated 40 million mammograms are performed annually. And thanks to the Mammography Quality Standards Act initially enacted over a decade ago, women all across America have benefited from uniform quality standards for mammography facilities.

For several years, I've been working with the FDA on issues related to silicone breast implants. I am concerned about recent studies on the effect of breast implants on mammography readings.

Specifically, an April 2003 NIH report highlighted clinical studies suggesting that women with breast implants have more advanced cancer at diagnosis than women without breast implants. And more recently, a January 2004 article published in the Journal of the American Medical Association concluded that breast implants decrease the sensitivity of mammography screenings to detect breast cancer.

The FDA has been extremely responsive on this issue and has acknowledged that breast implants can hide tumors or make it more difficult to include them in the image. As such, the FDA has suggested that medical professionals take special implant displacement views in addition to those taken during routine mammograms. These extra views are crucial to ensuring that women with breast implants have effective mammograms.

The folks at FDA have worked wonders on mammography standards thus far. I have every confidence that they will keep up the good work and take into consideration the unique circumstances of women with breast implants. With that, Mr. Speaker, I would encourage all of my colleagues to support this important legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 4555, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1500

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2929) to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2929

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securely Protect Yourself Against Cyber Trespass Act" or the "SPY ACT".

SEC. 2. PROHIBITION OF DECEPTIVE ACTS OR PRACTICES RELATING TO SPYWARE.

(a) PROHIBITION.—It is unlawful for any person, who is not the owner or authorized user of a protected computer, to engage in deceptive acts or practices that involve any of the following conduct with respect to the protected computer:

(1) Taking control of the computer by—

(A) utilizing such computer to send unsolicited information or material from the protected computer to others;

(B) diverting the Internet browser of the computer, or similar program of the computer used to access and navigate the Internet—

(i) without authorization of the owner or authorized user of the computer; and

(ii) away from the site the user intended to view, to one or more other Web pages, such that the user is prevented from viewing the content at the intended Web page, unless such diverting is otherwise authorized ;

(C) accessing or using the modem, or Internet connection or service, for the computer and thereby causing damage to the computer or causing the owner or authorized user to incur unauthorized financial charges;

(D) using the computer as part of an activity performed by a group of computers that causes damage to another computer; or

(E) delivering advertisements that a user of the computer cannot close without turning off the computer or closing all sessions of the Internet browser for the computer.

(2) Modifying settings related to use of the computer or to the computer's access to or use of the Internet by altering—

(A) the Web page that appears when the owner or authorized user launches an Internet browser or similar program used to access and navigate the Internet;

(B) the default provider used to access or search the Internet, or other existing Internet connections settings;

(C) a list of bookmarks used by the computer to access Web pages; or

(D) security or other settings of the computer that protect information about the owner or authorized user for the purposes of causing damage or harm to the computer or owner or user.

(3) Collecting personally identifiable information through the use of a keystroke logging function.

(4) Inducing the owner or authorized user to install a computer software component onto the computer, or preventing reasonable efforts to block the installation or execution of, or to disable, a computer software component by—

(A) presenting the owner or authorized user with an option to decline installation of a software component such that, when the option is selected by the owner or authorized user, the installation nevertheless proceeds; or

(B) causing a computer software component that the owner or authorized user has properly removed or disabled to automatically reinstall or reactivate on the computer.

(5) Misrepresenting that installing a separate software component or providing log-in and password information is necessary for security or privacy reasons, or that installing a separate software component is necessary to open, view, or play a particular type of content.

(6) Inducing the owner or authorized user to install or execute computer software by misrepresenting the identity or authority of the person or entity providing the computer software to the owner or user.

(7) Inducing the owner or authorized user to provide personally identifiable, password, or account information to another person—

(A) by misrepresenting the identity of the person seeking the information; or

(B) without the authority of the intended recipient of the information.

(8) Removing, disabling, or rendering inoperative a security, anti-spyware, or anti-virus technology installed on the computer.

(9) Installing or executing on the computer one or more additional computer software components with the intent of causing a person to use such components in a way that violates any other provision of this section.

(b) GUIDANCE.—The Commission shall issue guidance regarding compliance with and violations of this section. This subsection shall take effect upon the date of the enactment of this Act.

(c) EFFECTIVE DATE.—Except as provided in subsection (b), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFORMATION WITHOUT NOTICE AND CONSENT.

(a) OPT-IN REQUIREMENT.—Except as provided in subsection (e), it is unlawful for any person—

(1) to transmit to a protected computer, which is not owned by such person and for which such person is not an authorized user, any information collection program, unless—

(A) such information collection program provides notice in accordance with subsection (c) before execution of any of the information collection functions of the program; and

(B) such information collection program includes the functions required under subsection (d); or

(2) to execute any information collection program installed on such a protected computer unless—

(A) before execution of any of the information collection functions of the program, the owner or an authorized user of the protected computer has consented to such execution pursuant to notice in accordance with subsection (c); and

(B) such information collection program includes the functions required under subsection (d).

(b) INFORMATION COLLECTION PROGRAM.—For purposes of this section, the term ''information collection program'' means computer software that—

(1)(A) collects personally identifiable information; and

(B)(i) sends such information to a person other than the owner or authorized user of the computer, or

(ii) uses such information to deliver advertising to, or display advertising, on the computer; or

(2)(A) collects information regarding the Web pages accessed using the computer; and

(B) uses such information to deliver advertising to, or display advertising on, the computer.

(c) NOTICE AND CONSENT.—

(1) IN GENERAL.—Notice in accordance with this subsection with respect to an information collection program is clear and conspicuous notice in plain language, set forth as the Commission shall provide, that meets all of the following requirements:

(A) The notice clearly distinguishes such notice from any other information visually presented contemporaneously on the protected computer.

(B) The notice contains one of the following statements, as applicable, or a substantially similar statement:

(i) With respect to an information collection program described in subsection (b)(1): ''This program will collect and transmit information about you. Do you accept?''.

(ii) With respect to an information collection program described in subsection (b)(2): ''This program will collect information about Web pages you access and will use that information to display advertising on your computer. Do you accept?''.

(iii) With respect to an information collection program that performs the actions described in both paragraphs (1) and (2) of subsection (b): ''This program will collect and transmit information about you and your computer use and will collect information about Web pages you access and use that information to display advertising on your computer. Do you accept?''.

(C) The notice provides for the user—

(i) to grant or deny consent referred to in subsection (a) by selecting an option to grant or deny such consent; and

(ii) to abandon or cancel the transmission or execution referred to in subsection (a) without granting or denying such consent.

(D) The notice provides an option for the user to select to display on the computer, before granting or denying consent using the option required under subparagraph (C), a clear description of—

(i) the types of information to be collected and sent (if any) by the information collection program;

(ii) the purpose for which such information is to be collected and sent; and

(iii) in the case of an information collection program that first executes any of the information collection functions of the program together with the first execution of other computer software, the identity of any such software that is an information collection program.

(E) The notice provides for concurrent display of the information required under subparagraphs (B) and (C) and the option required under subparagraph (D) until the user—

(i) grants or denies consent using the option required under subparagraph (C)(i);

(ii) abandons or cancels the transmission or execution pursuant to subparagraph (C)(ii); or

(ii) selects the option required under subparagraph (D).

(2) SINGLE NOTICE.—The Commission shall provide that, in the case in which multiple information collection programs are provided to the protected computer together, or as part of a suite of functionally-related software, the notice requirements of paragraphs (1)(A) and (2)(A) of subsection (a) may be met by providing, before execution of any of the information collection functions of the programs, clear and conspicuous notice in plain language in accordance with paragraph (1) of this subsection by means of a single notice that applies to all such information collection programs, except that such notice shall provide the option under subparagraph (D) of paragraph (1) of this subsection with respect to each such information collection program.

(3) CHANGE IN INFORMATION COLLECTION.—If an owner or authorized user has granted consent to execution of an information collection program pursuant to a notice in accordance with this subsection:

(A) IN GENERAL.—No subsequent such notice is required, except as provided in subparagraph (B).

(B) SUBSEQUENT NOTICE.—The person who transmitted the program shall provide another notice in accordance with this subsection and obtain consent before such program may be used to collect or send information of a type or for a purpose that is materially different from, and outside the scope of, the type or purpose set forth in the initial or any previous notice.

(4) REGULATIONS.—The Commission shall issue regulations to carry out this subsection.

(d) REQUIRED FUNCTIONS.—The functions required under this subsection to be included in an information collection program that executes any information collection functions with respect to a protected computer are as follows:

(1) DISABLING FUNCTION.—With respect to any information collection program, a function of the program that allows a user of the program to remove the program or disable operation of the program with respect to such protected computer by a function that—

(A) is easily identifiable to a user of the computer; and

(B) can be performed without undue effort or knowledge by the user of the protected computer.

(2) IDENTITY FUNCTION.—With respect only to an information collection program that uses information collected in the manner described in paragraph (1)(B)(ii) or (2)(B) of subsection (b), a function of the program that provides that each display of an advertisement directed or displayed using such information when the owner or authorized user is accessing a Web page or online location other than of the provider of the software is accompanied by the name of the information

collection program, a logogram or trademark used for the exclusive purpose of identifying the program, or a statement or other information sufficient to clearly identify the program.

(3) RULEMAKING.—The Commission may issue regulations to carry out this subsection.

(e) LIMITATION ON LIABILITY.—A telecommunications carrier, a provider of information service or interactive computer service, a cable operator, or a provider of transmission capability shall not be liable under this section to the extent that the carrier, operator, or provider—

(1) transmits, routes, hosts, stores, or provides connections for an information collection program through a system or network controlled or operated by or for the carrier, operator, or provider; or

(2) provides an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the owner or user of a protected computer locates an information collection program.

SEC. 4. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—This Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). A violation of any provision of this Act or of a regulation issued under this Act committed with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive or violates this Act shall be treated as an unfair or deceptive act or practice violating a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

(b) PENALTY FOR PATTERN OR PRACTICE VIOLATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a) and the Federal Trade Commission Act, in the case of a person who engages in a pattern or practice that violates section 2 or 3, the Commission may, in its discretion, seek a civil penalty for such pattern or practice of violations in an amount, as determined by the Commission, of not more than—

(A) $3,000,000 for each violation of section 2; and

(B) $1,000,000 for each violation of section 3.

(2) TREATMENT OF SINGLE ACTION OR CONDUCT.—In applying paragraph (1)—

(A) any single action or conduct that violates section 2 or 3 with respect to multiple protected computers shall be treated as a single violation; and

(B) any single action or conduct that violates more than one paragraph of section 2(a) shall be considered multiple violations, based on the number of such paragraphs violated.

(c) EXCLUSIVENESS OF REMEDIES.—The remedies in this section (including remedies available to the Commission under the Federal Trade Commission Act) are the exclusive remedies for violations of this Act.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, but only to the extent that this section applies to violations of section 2(a).

SEC. 5. LIMITATIONS.

(a) LAW ENFORCEMENT AUTHORITY.—Sections 2 and 3 of this Act shall not apply to—

(1) any act taken by a law enforcement agent in the performance of official duties; or

(2) the transmission or execution of an information collection program in compliance with a law enforcement, investigatory, national security, or regulatory agency or department of the United States or any State in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or other lawful process.

(b) EXCEPTION RELATING TO SECURITY.—Nothing in this Act shall apply to—

(1) any monitoring of, or interaction with, a subscriber's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service, to the extent that such monitoring or interaction is for network or computer security purposes, diagnostics, technical support, or repair, or for the detection or prevention of fraudulent activities; or

(2) a discrete interaction with a protected computer by a provider of computer software solely to determine whether the user of the computer is authorized to use such software, that occurs upon—

(A) initialization of the software; or

(B) an affirmative request by the owner or authorized user for an update of, addition to, or technical service for, the software.

(c) GOOD SAMARITAN PROTECTION.—No provider of computer software or of interactive computer service may be held liable under this Act on account of any action voluntarily taken, or service provided, in good faith to remove or disable a program used to violate section 2 or 3 that is installed on a computer of a customer of such provider, if such provider notifies the customer and obtains the consent of the customer before undertaking such action or providing such service.

(d) LIMITATION ON LIABILITY.—A manufacturer or retailer of computer equipment shall not be liable under this Act to the extent that the manufacturer or retailer is providing third party branded software that is installed on the equipment the manufacturer or retailer is manufacturing or selling.

SEC. 6. EFFECT ON OTHER LAWS.

(a) PREEMPTION OF STATE LAW.—

(1) PREEMPTION OF SPYWARE LAWS.—This Act supersedes any provision of a statute, regulation, or rule of a State or political subdivision of a State that expressly regulates—

(A) deceptive conduct with respect to computers similar to that described in section 2(a);

(B) the transmission or execution of a computer program similar to that described in section 3; or

(C) the use of computer software that displays advertising content based on the Web pages accessed using a computer.

(2) ADDITIONAL PREEMPTION.—

(A) IN GENERAL.—No person other than the Attorney General of a State may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant violating any provision of this Act.

(B) PROTECTION OF CONSUMER PROTECTION LAWS.—This paragraph shall not be construed to limit the enforcement of any State consumer protection law by an Attorney General of a State.

(3) PROTECTION OF CERTAIN STATE LAWS.—This Act shall not be construed to preempt the applicability of—

(A) State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud.

(b) PRESERVATION OF FTC AUTHORITY.—Nothing in this Act may be construed in any way to limit or affect the Commission's authority under any other provision of law, including the authority to issue advisory opinions (under Part 1 of Volume 16 of the Code of Federal Regulations), policy statements, or guidance regarding this Act.

SEC. 7. ANNUAL FTC REPORT.

For the 12-month period that begins upon the effective date under section 11(a) and for each 12-month period thereafter, the Commission shall submit a report to the Congress that—

(1) specifies the number and types of actions taken during such period to enforce sections 2(a) and 3, the disposition of each such action, any penalties levied in connection with such actions, and any penalties collected in connection with such actions; and

(2) describes the administrative structure and personnel and other resources committed by the Commission for enforcement of this Act during such period.

Each report under this subsection for a 12-month period shall be submitted not later than 90 days after the expiration of such period.

SEC. 8. FTC REPORT ON COOKIES.

(a) IN GENERAL.—Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress regarding the use of tracking cookies in the delivery or display of advertising to the owners and users of computers. The report shall examine and describe the methods by which such tracking cookies and the websites that place them on computers function separately and together, and the extent to which they are covered or affected by this Act. The report may include such recommendations as the Commission considers necessary and appropriate, including treatment of tracking cookies under this Act or other laws.

(b) DEFINITION.—For purposes of this section, the term ''tracking cookie'' means a cookie or similar text or data file used alone or in conjunction with one or more websites to transmit or convey personally identifiable information of a computer owner or user, or information regarding Web pages accessed by the owner or user, to a party other than the intended recipient, for the purpose of—

(1) delivering or displaying advertising to the owner or user; or

(2) assisting the intended recipient to deliver or display advertising to the owner, user, or others.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 9. REGULATIONS.

(a) IN GENERAL.—The Commission shall issue the regulations required by this Act not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. Any regulations issued pursuant to this Act shall be issued in accordance with section 553 of title 5, United States Code.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) CABLE OPERATOR.—The term ''cable operator'' has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(2) COLLECT.—The term ''collect'', when used with respect to information and for purposes only of section 3, does not include obtaining of the information by a party who is intended by the owner or authorized user of a protected computer to receive the information pursuant to the owner or authorized user—

(A) transferring the information to such intended recipient using the protected computer; or

(B) storing the information on the protected computer in a manner so that it is accessible by such intended recipient.

(3) COMPUTER; PROTECTED COMPUTER.—The terms ''computer'' and ''protected computer'' have the meanings given such terms in section 1030(e) of title 18, United States Code.

(4) COMPUTER SOFTWARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''computer software'' means a set of statements or instructions that can be installed and executed on a computer for the purpose of bringing about a certain result.

(B) EXCEPTION FOR COOKIES.—Such term does not include—

(i) a cookie or other text or data file that is placed on the computer system of a user by an Internet service provider, interactive computer service, or Internet website to return information to such provider, service, or website; or

(ii) computer software that is placed on the computer system of a user by an Internet service provider, interactive computer service, or Internet website solely to enable the user subsequently to use such provider or service or to access such website.

(5) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(6) DAMAGE.—The term ''damage'' has the meaning given such term in section 1030(e) of title 18, United States Code.

(7) DECEPTIVE ACTS OR PRACTICES.—The term ''deceptive acts or practices'' has the meaning applicable to such term for purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(8) DISABLE.—The term ''disable'' means, with respect to an information collection program, to permanently prevent such program from executing any of the functions described in section 3(b) that such program is otherwise capable of executing (including by removing, deleting, or disabling the program), unless the owner or operator of a protected computer takes a subsequent affirmative action to enable the execution of such functions.

(9) INFORMATION COLLECTION FUNCTIONS.—The term ''information collection functions'' means, with respect to an information collection program, the functions of the program described in subsection (b) of section 3.

(10) INFORMATION SERVICE.—The term ''information service'' has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(11) INTERACTIVE COMPUTER SERVICE.—The term ''interactive computer service '' has the meaning given such term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(12) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(13) PERSONALLY IDENTIFIABLE INFORMATION.—

(A) IN GENERAL.—The term ''personally identifiable information'' means the following information, to the extent only that such information allows a living individual to be identified from that information:

(i) First and last name of an individual.

(ii) A home or other physical address of an individual, including street name, name of a city or town, and zip code.

(iii) An electronic mail address.

(iv) A telephone number.

(v) A social security number, tax identification number, passport number, driver's license number, or any other government-issued identification number.

(vi) A credit card number.

(vii) Any access code, password, or account number, other than an access code or password transmitted by an owner or authorized user of a protected computer to the intended recipient to register for, or log onto, a Web page or other Internet service or a network connection or service of a subscriber that is protected by an access code or password.

(viii) Date of birth, birth certificate number, or place of birth of an individual, except in the case of a date of birth transmitted or collected for the purpose of compliance with the law.

(B) RULEMAKING.—The Commission may, by regulation, add to the types of information specified under paragraph (1) that shall be considered personally identifiable information for purposes of this Act, except that such information may not include any record of aggregate data that does not identify particular persons, particular computers, particular users of computers, or particular email addresses or other locations of computers with respect to the Internet.

(14) SUITE OF FUNCTIONALLY RELATED SOFTWARE.—The term 'suite of functionally related software' means a group of computer software programs distributed to an end user by a single provider, which programs are necessary to enable features or functionalities of an integrated service offered by the provider.

(15) TELECOMMUNICATIONS CARRIER.—The term ''telecommunications carrier'' has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(16) TRANSMIT.—The term ''transmit'' means, with respect to an information collection program, transmission by any means.

(17) WEB PAGE.—The term ''Web page'' means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

SEC. 11. APPLICABILITY AND SUNSET.

(a) EFFECTIVE DATE.—Except as specifically provided otherwise in this Act, this Act shall take effect upon the expiration of the 12-month period that begins on the date of the enactment of this Act.

(b) APPLICABILITY.—Section 3 shall not apply to an information collection program installed on a protected computer before the effective date under subsection (a) of this section.

(c) SUNSET.—This Act shall not apply after December 31, 2009.

The SPEAKER pro tempore (Mr. FOSSELLA). Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2929.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering legislation to protect consumers against Internet spying.

Internet spying is all too common. Many consumers are totally unaware that even that their computers can be infected with programs that monitor their activity on the Internet and transfer private information to third parties. At the least, this private information is used to drive the annoying pop-up ads that we see when we turn on our computers. At its very worst, spyware is used by unscrupulous operators to steal financial information and even the individual who owns the computer's personal identity.

The term spyware is used to describe a number of nefarious activities on the Internet, all involve spying or stealing information about consumers without their permission. These activities include: Key stroke logging, in which all of the computer user's key strokes are recorded and sent to a third party; homepage highjacking, in which spyware takes control of the computer, highjacks the individual user's homepage to a commercial or in some case a pornographic site; phishing, in which spyware directs false messages to computer users purporting to be from reputable merchants to steal credit card or other financial information from the user for the use of the third party.

Spyware is downloaded on to a computer without the knowledge of the user. Computers can be infected just by visiting Web sites that cause spyware to be downloaded on to any computer visiting that site.

We tested some of the computers in the Committee on Energy and Commerce. We discovered that these computers had been infected with many pieces of spyware, I believe the number was over 60, and that some of it did direct information to third parties about the use of those computer. All of this was done without any notice to the owners of those computers. I would also point out that this was done by getting through at least two fire walls, the House of Representatives' fire wall and the Committee on Energy and Commerce's fire wall.

Technological development moves quickly, much faster than the regulatory or legislative process. It has taken the House 5 years to give regulators additional tools to combat spam, for instance. I am told that the Federal Trade Commission has not brought any cases against purveyors of spyware to date. Our reaction to spyware is the exception to this rule. In town meetings in my congressional district in Texas just this past August, my constituents unanimously expressed outrage at the brazenness of spyware and exhibited a strong desire for us to act as soon as possible against this insidious disease.

Every Member that I have spoken with on both political parties wants to take action to fight spyware. Some have heard from constituents. One of our subcommittee chairmen experienced the effects of spyware firsthand when his own homepage was highjacked. Today, on a bipartisan basis, it is my hope that we will pass this legislation to combat spyware.

The legislation before us would prohibit the sets of practices like highjacking a consumer's homepage. It

would prohibit keystroke logging. It would prohibit sending ads that cannot be closed except by shutting down the computer. It would also provide for a prominent opt-in for consumers prior to downloading any monitoring software under that consumer's computer.

I believe that consumers should be given notice and have the right to consent before monitoring software that collects information about them is added to their computers.

The legislation before us would also require that monitoring software be easily disabled at the direction of the consumer. It would also provide for FTC, Federal Trade Commission, enforcement with significant monetary penalties for those who knowingly violate the act. While criminal penalties may be appropriate for the most egregious behavior, I believe we have an obligation to provide additional protection to consumers' online information by having these civil fines that the FTC would enforce.

Importantly, the SPY ACT before us regulates information-collection programs. These are programs that have the capability to collect personally identifiable information and either transmit that information to a third party or use that information to deliver or display advertising on the computer. The SPY ACT requires companies that are sending ads to the computers to identify with each ad the information collection program that is generating the ad. With this disclosure, consumers will know who is bombarding them with ads and will be able to make their own decision as to whether they wish to be so bombarded.

The SPY ACT sets up a uniform national rule. Internet commerce is inherently interstate in nature. We need one set of rules for such commerce. I want to commend a number of Members for their strong work on this bill. First of all, I would like to thank the bill's sponsor, the gentlewoman from California (Mrs. BONO). It is she who has taken the lead to introduce the bill last October when most of us, myself included, had little knowledge of exactly what spyware was. She has been a tireless educator to many of us on its dangers and has worked tirelessly to improve the bill. She has brought dynamic leadership on technology issues to the Committee on Energy and Commerce, and her commonsense approach on this legislation has brought the issue to the floor expeditiously. I want to commend her for her strong work.

The gentleman from New York (Mr. TOWNS), the co-sponsor of the original legislation with the gentlewoman from California (Mrs. BONO), he too has been a great bipartisan partner in this project. He made important contributions to the areas of network- and computer-based security.

The gentleman from Florida (Mr. STEARNS), the chairman of the Subcommittee on Commerce, Trade and Consumer Protection has been a key leader on all privacy related issues in this Congress. He has held eight hearings on privacy matters in this Congress and worked with the gentlewoman from California (Mrs. BONO) and the gentleman from New York (Mr. TOWNS) to perfect the legislation that is before us today.

I would also like to commend the gentleman from Michigan (Mr. DINGELL), the ranking minority member and the gentlewoman from Illinois (Ms. SCHAKOWSKY) the ranking subcommittee member, for their excellent work at the subcommittee and full committee.

We have had truly a bipartisan effort to perfect this legislation and bring it to the floor today. It shows what can happen when Members on both sides of the aisle work together towards a common purpose.

The bill before us is a significant improvement on the original bill. And it is a result of the fine work that has been done by all Members on all sides of the aisle. This is a good bill. It has passed the Committee on Energy and Commerce overwhelmingly.

Anybody who has held a town meeting on this can tell you automatically that our constituents are opposed to spyware and want us to do something to protect their privacy as soon as possible.

Madam Speaker, I hope that we pass this overwhelmingly.

Madam Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of a strong consumer and privacy protection bill, H.R. 2929, the Securely Protect Yourself Against Cyber Trespass Act or the SPY ACT.

First, I would like to thank my colleagues, the gentleman from Texas (Mr. BARTON), the ranking member, the gentleman from Michigan (Mr. DINGELL), the gentleman from Texas (Mr. STEARNS), the gentleman from New York (Mr. TOWNS) and the gentlewoman from California (Mrs. BONO), for their work on the SPY Act. I would like to commend them for the manner in which this bill was handled. The process was open. There was a sincere willingness to address each other's concerns and the work was organized around the goal of creating a strong and effective consumer protection bill. I think we have accomplished our goal.

The SPY ACT is a bill whose time has come. As we have learned from our constituents, friends and family from our own experiences, people are increasingly finding that their home web pages have been changed or that their computers are sluggish. They will get pop-up ads that will not go away no matter how many times they try to close them. They find software on their computer that they did not install and that they cannot un-install. Their computers are no longer their own, and they cannot figure out why. They think that the problem is with their computer, with a faulty program they installed, or with their Internet service provider.

But more and more often, it is becoming clear that they are the unwilling victims of spyware. Software that can collect personal information, track web usage and adversely effect computer performance. While some of the above examples may be written off as merely annoying, there are serious privacy and security issues at stake.

The tracking capability of the software is so powerful that it can record every keystroke a computer user enters. It can snatch personal information from a consumer's hard drive. People can see their bank account numbers, passwords and other personal information stolen because they quite innocently went to a Web site or clicked an agreement which downloaded spyware onto their computer.

Although we do not want to stop legitimate uses of the underlying software, like allowing for access to online newspapers without having to register every time the Web site is visited, we do want consumers to know what is happening with their constitutes and personal information and to stop truly nefarious abuses of the programs, like keystroke logging which can track and transmit every keystroke entered to an unintended recipient.

The SPY ACT ensures that consumers are protected from truly bad acts and actors while also preserving pro-consumer functions of the software. It prohibits indefensible uses of the software, like keystroke logging and homepage highjacking. Additionally, it gives consumers the choice to opt-in to the installation or activation of information-collection programs on their computer, programs that are not spyware, but only when the consumer knows exactly what information will be collected and what will be done with it.

Furthermore, the SPY ACT gives the Federal Trade Commission the power it needs, on top of laws already in place, to pursue deceptive uses of the spyware. The SPY ACT puts the control of computers and privacy back in consumers' hands, and I am glad that I was able to be a part of the process that brought this bill to the floor today.

Again, I thank my colleagues for this pro-consumer, pro-privacy and bipartisan piece of legislation.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 5 minutes to the gentleman from Florida (Mr. STEARNS), the distinguished subcommittee chairman.

Mr. STEARNS. Madam Speaker, I am pleased to support this legislation. I think it provides strong e-commerce protection, not through computer codes but rather through the U.S. legal code, for the American consumer and businesses large and small. And I would like to say at the very onset that we

have support from the industry itself. Microsoft, Time Warner, Dell, Yahoo, eBay, the Business Software Alliance, Humana, EarthLink and several spyware companies themselves.

The SPY ACT of 2004 takes dead aim at unwanted and sometimes malicious programs known as spyware that we all know can link and lurk in cyberspace. They corrupt and compromise computers and their networks and ultimately, Madam Speaker, they cost Americans and the economy major losses in time and money and productivity.

The Federal Trade Commission loosely defines spyware as software ''that aids in gathering information about a person or organization without their knowledge and that may send such information to another entity without the consumer's consent or that assert control over a computer without the consumer's knowledge.''

The reality is that this deceptive and sometimes fraudulent activity, including the use of spyware, not only has the potential to damage consumer's confidence in e-commerce but also can be used to defraud consumers by stealing their personal financial information, quite literally, from underneath their noses. It is also alarming that estimates now show that these spyware programs have grown in number from about 2 million in August of 2003 to over 14 million today.

The National Cybersecurity Alliance has estimated that over 90 percent of users had some form of adware or spyware on their computers, and frankly, most of them were totally unaware of it. Given the gravity of this threat and its rapid growth, I am proud to say that the Committee on Energy and Commerce, Republicans and Democrats alike, as mentioned by the ranking member, have worked together in a bipartisan fashion. Oftentimes, we are on the House floor, we will be here probably the next couple of days, not in a bipartisan fashion, but we are here today, and it is a credit to the leadership for bringing this bill before us.

Obviously, I think great credit goes to my colleague, the gentlewoman from California (Mrs. BONO) for her early leadership in this area and also working in a bipartisan method. I think a lot of credit goes to the gentleman from New York (Mr. TOWNS) for his early co-sponsorship. And I think our Subcommittee on Commerce, Trade and Consumer Protection, which I chair, and the gentlewoman from Illinois (Ms. SCHAKOWSKY) is the ranking member, also as she pointed out, worked together.

I would also like to tell my colleagues, this is another good effort of our staffs, both Democrat and Republican, working together. The hard work of industry also should be commended because, obviously, when this bill first got started and we had our hearings, there were a lot of people in the industry that had some reservations.

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We can only get through those reservations by having open-door communications with them and making the case of hard work with the staff and trying to get this free flow of communication, and I think in this case the staff is to be commended for making, as the chairman said, a good bill even better.

As I mentioned to him, I have had many hearings dealing with privacy, and we have had a hearing on this. So H.R. 2929 would not only send a loud and clear message to those who would do harm to our computers but it also would add another layer of protection over the robust firewall and detection technology that the information technology industry is starting to provide consumers and businesses.

In conclusion, Madam Speaker, I urge my colleagues to pass H.R. 2929, the SPY Act of 2000. It is time to put an end to spyware and keep Americans secure and confident in the e-commerce marketplace.

Ms. SCHAKOWSKY. Madam Speaker, I would like to join the gentleman in thanking our staff, as well, for the hard work and the good work they did on bringing this legislation now to fruition.

Madam Speaker, I yield 5 minutes to the gentleman from New York (Mr. TOWNS), one of the people most responsible for this consumer protection legislation.

Mr. TOWNS. Madam Speaker, I rise in support of the SPY Act, which would greatly improve the privacy of consumers' online computer use.

A lot of hard work has been put into this legislation. First and foremost, I would like to commend the gentlewoman from California (Mrs. BONO), the primary sponsor of the bill. Without her hard work, insight and persistence on this issue, we would not be here today. As the primary Democratic sponsor, I have been proud to work with her on this bill, and I salute her for all her efforts.

I also want to commend the gentleman from Texas (Chairman BARTON) for his strong commitment to this issue and leadership in getting our bill to the floor. I would like to thank the gentleman from Florida (Chairman STEARNS), the gentleman from Michigan (Ranking Member DINGELL), and the gentlewoman from Illinois (Ranking Member SCHAKOWSKY), who have all made substantial contributions. I would also like to acknowledge all of the staff that have worked so hard to make this day a reality.

There is no debate that spyware is a serious problem, one that is growing and becoming more harmful every day. Spyware software, which is downloaded without the computer owner's knowledge, invades our privacy by recording and transmitting personal information, monitoring the Web sites we visit, or even stealing documents from our computers. Other programs hijack our computers by changing our home page or forcing us to click through multiple screens until we download a spyware program.

Today's legislation would give consumers new tools to prevent these harmful activities from happening. Under the bill, consumers would have to receive a clear and concise warning about the spyware program. Second, consumers would have to provide their affirmative consent before the program could operate on their computer. Finally, consumers must have the option to easily disable any harmful spyware program on their computer.

While some consumers may want to share their information to receive free games or other discount offers, all consumers have the right to make that choice. This legislation would help ensure that consumers who do not want these programs secretly operating in the background, recording personal information, are not on their computers.

Finally, Madam Speaker, any time we legislate on highly technical matters, there is always a danger in stifling innovation or making the use of legitimate software too burdensome. It is a very difficult tightrope to walk, but I think we have done an excellent job in walking that line. This bill addresses many of the concerns raised, while at the same time retaining meaningful notice and consent to protect consumers' privacy.

This is a classic example of what we can accomplish when we work together, and we have worked together to make this day a reality. Through much hard work, we have carefully crafted a strong, bipartisan consumer protection bill; and I urge my colleagues to support this legislation because it is needed and needed desperately.

Mr. BARTON of Texas. Madam Speaker, I want to thank the gentleman from New York who just spoke for his excellent leadership on this bill. It is a better bill because of his efforts.

Madam Speaker, I yield 5 minutes to the distinguished gentlewoman from California (Mrs. BONO), who, along with the gentleman from New York (Mr. TOWNS), was an original cosponsor of the original bill.

Mrs. BONO. Madam Speaker, first I would like to thank the gentleman from Texas for yielding me time and for his tremendous leadership on this issue, as well as all of the issues before the Committee on Energy and Commerce.

I would also like to extend my gratitude to the gentleman from Michigan (Ranking Member DINGELL), the gentleman from Florida (Chairman STEARNS), a good friend, the gentlewoman from Illinois (Ranking Member SCHAKOWSKY) and the original cosponsor along with me, the gentleman from New York (Mr. TOWNS), who has been an absolute pleasure and delight to work with. I look forward to working with him on a lot more similar issues in the future.

Each of the aforementioned colleagues of mine, as well as their staffs,

have worked with me to improve and refine this bill. I also thank the industry participants and consumer groups who have contributed to its improvement. I am confident that we have drafted a bill that protects consumers without impeding the growth of technology.

I would also like to thank all my staff and Jennifer Baird and Linda Valter for their tireless work.

In the other body, Senators BURNS, WYDEN, AND BOXER introduced S. 2145, the SPY BLOCK Act, and the Senate Commerce Committee recently approved and reported the bill. I look forward to working with my Senate counterparts on this matter, as well as the FTC and the technology industry, which will hopefully work to educate consumers about the dangers surrounding spyware, as well as its nature.

In California, my home State, Governor Schwarzenegger, recently signed an anti-spyware bill entitled the Consumer Protection Against Computer Spyware Act. This bill, similar to other State laws, varies from the proposed Federal legislation, making it all the more imperative that we act now to ensure there is a uniform standard available for consumers.

Yesterday, Earthlink and Webroot just released their latest spyware audit, which reveals that after 3 million scans for spyware, 83.4 million instances of spyware had been discovered. This is an average of 26 traces of spyware per SpyAudit scan. Unfortunately, consumers regularly and unknowingly download software programs that have the ability to track their every move. Consumers are sometimes informed when they download such software. However, the notice is often buried in multithousand word documents that are filled with technical terms and legalese that would confuse even a high-tech expert. Moreover, there are some Web sites and e-mail messages which deliberately trick computer users.

In response to the rapid proliferation of spyware, in July of 2003, together with the gentleman from New York (Mr. TOWNS), I introduced H.R. 2929, the Securely Protect Yourself Against Cyber Trespass Act. This bill prohibits such behavior by specifically outlawing Web hijacking, keystroke logging, drive-by downloads, phishing, and several other insidious behaviors.

Additionally, H.R. 2929 establishes a simple notice regime so the computer users can make informed decisions regarding programs they wish to put on their computers. The PC has become our new town square and global market, as well as our private database. If a consumer downloads software that can monitor the information shared during transactions, for the sake of the consumer as well as e-commerce, it is imperative that the consumer be informed of whom he or she is inviting into their computer and what he or she is capable of doing. After being informed, a consumer should have the chance to decide whether to continue with that download.

H.R. 2929 would require that all spyware companies give clear, concise and conspicuous notice to computer users about the function of their software, as well as the information that may be collected and transmitted through such software. After giving such notice, the computer user would have to agree to further download that software.

Madam Speaker, I urge my colleagues to support H.R. 2929. Again, I thank the chairman and my colleagues on the other side of the aisle.

Ms. SCHAKOWSKY. Madam Speaker, if I could inquire if there are any other speakers on the other side.

Mr. BARTON of Texas. We think we have the gentleman from Michigan (Mr. UPTON), subcommittee chairman, on his way; but other than that we have no other speakers.

Ms. SCHAKOWSKY. Madam Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself the balance of the time.

To close the debate, let me simply say I think we have seen in this debate not just the bipartisan support but the unanimous support this bill has. Whether my colleagues represent metropolitan New York City or the suburbs of Chicago or the hurricane-ravaged plains of Florida, the prairies of Texas, or Southern California, we are all hooked up to the Internet; and we all have constituents who are outraged that as they do their Internet shopping and browsing and surfing, these insidious programs called spyware can infect their computers without their permission. Unfortunately, right now it is not even illegal.

What this bill does is make it illegal, and it gives the Federal Trade Commission the authority to impose significant civil fines for using this spyware.

I would also like to point out that thanks to the strong work of the committee staff on both sides of the aisle, we have a bill that the business community supports. Microsoft, the Software Business Alliance, Yahoo, Time Warner who owns AOL, they all support this. Ebay supports this bill. We are going to put those statements of support in the RECORD at this point.

TIMEWARNER,
September 21, 2004.

Hon. JOE BARTON,
Hon. JOHN DINGELL,
House Energy and Commerce Committee, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON AND REPRESENTATIVE DINGELL: On behalf of TimeWarner and its AOL division, I would like to express our support for H.R. 2929, the Safeguard Against Privacy Invasions Act, which was authored by Representatives Bono and Towns and approved by your Committee in June.

Battling spyware is one of AOL's top business and policy priorities. Spyware is a growing concern for all Internet users, wreaking havoc with consumers' computers and undermining their online experience. We believe that spyware must be addressed on many fronts, including through legislation, technology, and consumer education.

We have been pleased to work closely with the House Energy and Commerce Committee over the past several months on this legislation. H.R. 2929 will provide some important tools in the fight against spyware, outlawing destructive behaviors that can deceive and defraud consumers through the use of unauthorized software. We appreciate all of the improvements you have made and continue to make to this bill as it moves through the process, and we are hopeful that, along with legislation that has been approved by the Judiciary Committee, it will soon be considered on the House Floor.

The time is right for strong and effective federal spyware legislation. We are grateful for the opportunity to work with you and your Committee on this topic, and are eager to see this bill move forward so that consumers and legitimate businesses can enjoy additional anti-spyware protections in the near future.

Sincerely,

JENNIFER JACOBSEN,
Vice President,
Global Public Policy.

BUSINESS SOFTWARE ALLIANCE,
Washington, DC, September 17, 2004.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your ongoing efforts to advance America's high tech industries and protect the interests of American consumers. We appreciate your commitment and leadership.

In particular, I write today to commend you for your attention to addressing the growing problem of spyware and to let you know that the Business Software Alliance endorses your leadership in moving to secure approval of the Spy Act, H.R. 2929, on the House floor this Congress. The manager's amendment to the committee passed bill, which we understand will be brought to the floor, is a step forward in the effort to control the onslaught of harmful spyware that has proved to be annoying at best and harmful at its worst to consumers and businesses alike.

Surreptitiously downloaded spyware inflicts significant costs on our member companies as they are forced to help their innocent customers identify and remedy the source of parasitic encroachment on their computer systems. As an association that represents the country's leading business software and hardware makers, we know all too well the dangers of harmful and deceptive spyware. We have heard from our customers, just as you have from your constituents, that this spyware is frustrating the user experience by hijacking their personal property.

I also want to commend you and your staff on the development of the legislation. As you know, the initial drafts raised concerns that the bill might target and punish technologies rather than the bad behavior that has proved to be so troublesome. I am pleased that you and your staff provided an open and inclusive environment for us to share our views and appreciate the improvements that have been made to the legislation.

As you know, successful legislation requires thoughtful discussion, cooperation and compromise, and we understand the important balance you have sought to achieve in moving this process forward. We applaud

your efforts, and BSA looks forward to working with you and your staff as the bill continues through the legislative process.

Sincerely,

ROBERT W. HOLLEYMAN, II,
President and CEO.

SEPTEMBER 21, 2004.

Hon. JOE BARTON,
Chairman, House Committee on Energy & Commerce, Rayburn House Office Building, Washington, DC.
Hon. JOHN DINGELL,
Ranking Member, House Committee on Energy & Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON AND CONGRESSMAN DINGELL: On behalf of eBay and its more than 100 million users worldwide, I want to commend you for your bipartisan work on legislation intended to combat Spyware on the Internet.

We agree that the proliferation of so-called ''Spyware'' on the Internet threatens to undermined consumers' online experience and erode the overall value of the Internet. eBay is always ready to work with lawmakers to come up with sound legislation that prohibits invasions of privacy while protecting legitimate activities we use to protect our community and fight fraud. We believe the Energy & Commerce Committee has worked hard to strike the necessary balance on this important issue, and has gone to unprecedented lengths to reach bipartisan consensus and work with industry leaders.

One of eBay's highest priorities is to provide a safe and well-lit place for our users to conduct business. That is why we are pleased with the Committee's willingness to include a provision exempting fraud detection and prevention activities from the bill's requirements intended to deter Spyware. That provision will allow us to continue to gather critical information needed to protect our users when they trade on eBay.

Thank you for taking eBay's concerns into consideration in developing balanced legislation to target nefarious behavior on the Internet. We look forward to full House consideration of this important legislation as soon as possible.

Sincerely,

TOD H. COHEN,
Associate General,
Global Government Relations.

HUMANA INC.,
Louisville, KY, September 15, 2004.

Re H.R. 2929—the Safeguard Against Privacy Invasions Act.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, Washington, DC.

DEAR CHAIRMAN BARTON: I wish to express my company's strong support for the Committee-reported version of H.R. 2929, the Safeguard Against Privacy Invasions Act, or SPY Act. This legislation provides a meaningful opportunity to reduce the amount of spyware and disruptive advertising that are threatening to impair our day-to-day business applications. Moreover, such reduction will enhance the protection of our customers' personal information and improve their online experience.

Humana Inc., headquartered in Louisville, Kentucky, is one of the nation's largest publicly traded health benefits companies, with approximately 7 million medical members located primarily in 19 states and Puerto Rico. We offer coordinated health insurance coverage and related services—through traditional and internet-based plans—to employer groups, government-sponsored plans and individuals. We have approximately 13,000 employees.

At Humana, we have experienced significant spyware-related damage on our workstations. This includes computer-related printing problems, inability to operate internal applications like entering timesheets and expense reports, serious performance degradation (slow response time), and the inability to launch or use the Internet or our internal intranet applications. We have numerous workstations that have needed to be rebuilt because of spyware issues and service calls where our technicians spend numerous hours troubleshooting various spyware problems. We estimate that we received approximately 300,000 individual pieces of malicious spyware in the first quarter of 2004 alone (or approximately 5 percent of all transactions.)

Not every associate or consumer has the sophistication level of knowing what is or may not be installed on his or her PC—causing spyware-related response time issues. As a result, we believe that surreptitiously installed spyware introduces very serious privacy concerns both at an individual level and for corporations. Unknowingly being spied upon seems to also introduce new types of concerns for corporations, including protection of intellectual assets, property, trade secrets, and competitive advantage information.

Additionally, as a company whose core business is to handle our customers' most sensitive medical information, we strongly support the concept that consumers need to be meaningfully informed about how their personal information is collected and used. And, we support their right to end that relationship when they deem fit to do so. There is no such thing as ''benign'' spyware.

The health care industry continues to be one of the most paper-intensive industries. In the past several years, we have made great strides to move toward an electronic world. E-commerce and the Internet in the health care industry have reduced administrative costs, improved claims processing, and hold the promise of improving patient care and quality through concepts such as electronic medical records. The proliferation of spyware and disruptive software threatens to undermine consumers' confidence in the Internet and negate the progress we have made and hope to make in the future. Therefore we fully support moving forward with this important legislation.

In closing, we appreciate the opportunity to comment on H.R. 2929, and look forward to assisting the Committee in any way as this legislation moves forward.

Sincerely,

BRUCE J. GOODMAN,
Senior Vice President and
Chief Service and Information Officer.

MICROSOFT CORPORATION,
Washington, DC, September 22, 2004.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, House of Representatives, Washington, DC.
Hon. JOHN D. DINGELL,
Ranking Member, House Energy and Commerce Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN BARTON AND RANKING MEMBER DINGELL: I am writing to commend your leadership on H.R. 2929, the ''Securely Protect Yourself Against Cyber Trespass Act'' or the ''SPY ACT,'' and convey Microsoft's support for moving the bill forward for consideration by the full House.

Microsoft shares the goals of the members of the Energy and Commerce Committee to protect consumers from deceptive software (''spyware''). We agree: the fraudsters that use deceptive software to prey on consumers must be stopped. We appreciate your and your staff's tireless work toward producing a bill that, as you put it, goes after the bad guys but doesn't unnecessarily impede the good guys.

Legislation is but one tool with which to wage the fight against spyware. In addition to strong laws, Microsoft strongly believes that technological solutions, consumer awareness, best practices, and strong enforcement are all critical elements of any effective strategy to help unsuspecting consumers avoid being victimized by spyware.

In particular, I want to express our appreciation for working to address concerns with Section 3 of H.R. 2929 which imposes notice and consent requirements to protect the privacy of computer users. We appreciate the work of the staff to understand potential consequences of such requirements in instances where exchange of data is related to the functionality of particular software applications or where it would be reasonably expected by computer users.

Finally, let me personally convey Microsoft's appreciation for the opportunity to provide input to you and the committee staff throughout this process. We would not have reached this point without their diligence and serious consideration of our feedback.

Like any legislation of such complexity, there may be additional areas that need to be clarified or enhanced. With that in mind, we look forward to continuing to work in partnership with you and the bipartisan committee staff should such issues arise. Likewise, please do not hesitate to call on us should you require our input or assistance.

Thank you for the enormous amount of time and effort you have devoted to this important effort.

Sincerely,

JACK KRUMHOLTZ,
Managing Director, Federal Gov. Affairs,
Associate General Counsel.

YAHOO! INC.,
SEPTEMBER 17, 2004.

Hon. JOE BARTON,
Energy & Commerce Committee,
2322 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN, Yahoo! writes to support the latest version of H.R. 2929 issued on September 10, 2004, and looks forward to continuing to work with you as the bill proceeds through the legislative process.

You, Ranking Minority Member Dingell, Subcommittee Chairman Stearns, Ranking Member Schakowsky, and co-authors of the bill Representatives Bono and Towns and the respective staff, have worked tirelessly to develop a bill that prohibits ''spyware'' activities such as taking control of a user's computer or modifying computer settings for the purposes of causing damage. In addition, the bill gives users more control over their online experience through enhanced notices and features that can disable aspects software consumers may find undesirable. The new requirements strike a balance between allowing useful tools for computer users and requiring reasonable changes to existing mechanisms to give notice, consent, and to remove or disable software.

Thank you for hearing our concerns, responding to them accordingly, and giving consumers and legitimate businesses hope that the spyware problem can be, in part, addressed by new tools for consumers and the new deterrent penalties in H.R. 2929.

Sincerely,

JOHN SCHEIBEL,
Vice President for Public Policy.

UNITED STATES TELECOM ASSOCIATION,
Washington, DC, August 4, 2004.

Hon. DENNIS HASTERT,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the United States Telecom Association (''USTA''), I am writing to express our support of H.R. 2929, the Safeguard Against Privacy Invasions Act. USTA was grateful for the opportunity afforded by members of the House Commerce Committee specifically Chairman Barton, Representatives Stearns, Upton, Bono, Dingell Towns, and Schakowsky and their staff to participate and comment on this legislation. USTA represents over 1,200 member companies that offer a wide range of services, including local exchange, long distance, wireless, Internet and cable television service.

H.R. 2929 recognizes appropriately the role of telecommunications carriers as it relates to network integrity, security and the transmission of information. In late June, the House Commerce Committee voted 45–4 to send this legislation to the full House and it is our hope that it will be considered in the coming weeks.

Again, thank you for all you do on behalf of the telecommunications industry. Please do not hesitate to contact me if I may be of service to you or your staff.

Sincerely,

WALTER B. MCCORMICK, JR.
President and Chief Executive Officer.

WHENU,
New York, NY, September 20, 2004.

Re H.R. 2929.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR CHAIRMAN BARTON: WhenU.com is a global Desktop Advertising Network. Through the Company's partnerships with popular software developers, WhenU enables consumers to receive valuable software for free by agreeing to see occasional ads instead of paying a fee—and without compromising their privacy. WhenUs's unique advertising technology distinguishes itself from existing online advertising approaches by applying sophisticated precision logic at the desktop level. From the desktop, WhenU software examines keywords, URLs and search terms currently in use on the consumer's browser and then selects relevant and useful advertisements. WhenU accomplishes this in a highly privacy protective manner and avoids collecting any browsing data—even anonymously—about individual users. The WhenU Desktop Advertising Network does not track user or clickstream data, use cookies, compile a centralized database of users, or engage in any type of user profiling.

I am writing to first express my appreciation to you, Chairman Stearns, and Representatives Bono, Schakowsky and Towns, among others, and to the bipartisan Energy and Commerce Committee staff led by David Cavicke, for the opportunity to work with the Committee to help perfect H.R. 2929. It has been a gratifying, productive and successful process. I am pleased today to state that WhenU supports the September 10 version of H.R. 2929. We are particularly pleased with the bill's treatment of state pre-emption issues. We believe that the September 10 version of H.R. 2929 strikes a reasonable balance that should succeed in protecting consumers, eliminate bad actors, and enable legitimate businesses to continue to provide useful and meaningful e-commerce solutions for the country.

Sincerely,

AVI NAIDER,
Chief Executive Officer.

180SOLUTIONS,
Bellevue, WA, September 17, 2004.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce,
Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. 180solutions is a leading provider of Internet search marketing software, offering consumers access to a wide range of free content in return for their agreement to be shown a limited number of websites each day selling goods or services—most often at times when they are likely shopping for those goods or services online. We use keyword search technology to deliver these highly targeted websites to consumers on behalf of over 6,000 advertisers, including many top-tier companies whose brands are household names.

We are writing to express our company's support for House passage of H.R. 2929 in the form of the Managers' Amendment dated September 10, 2004. During the course of this legislation's consideration in the Energy and Commerce Committee, it has continually evolved and improved to allow legitimate companies like ours to assist consumers in their search for advantageous and competitive sales offers online, while protecting computer users and owners from the deceptive or fraudulent acts or practices often associated with spyware. We are also deeply appreciative of the open process by which the bill has been developed and commend the Members and staff on both sides of the aisle for working with all stakeholders to that end.

As you may know, we had hoped the legislation would deal more with tracking cookies, but we recognize that the issue is complex and thus has become controversial. The Federal Trade Commission report provided for by section 8 of the Managers' Amendment is a good compromise that will foster further discussion on the basis of sound and unbiased analysis.

Thank you again for your consideration of our views and for your careful crafting of this legislation.

Sincerely,

KEITH SMITH,
Chief Executive Officer.

This is one of those rare times when the House of Representatives probably is not ahead of the curve, but we are at least catching up with the curve to end something and to police something that every one of our constituents who is on the Internet is absolutely opposed to.

So Madam Speaker, I ask for a strong ''aye'' vote on this bill.

Mr. SHAYS. Madam Speaker, I want to express support for two bills the House is considering this week: H.R. 2929, the Safeguard Against Privacy Invasions Act, and H.R. 4661, the Internet Spyware I–SPY Prevention Act. I strongly support these pieces of legislation and I am pleased they incorporate changes similar to legislation Congressman JAY INSLEE and I introduced, H.R. 4255, the Computer Software Privacy and Control Act.

Millions of computers have been infected with spyware, software that is deceptively installed on their computers to collect their personal information, record their keystrokes, change their browser homepage, or display unwanted advertising.

H.R. 2929 would require notice and consent from the computer user before software is able to collect personal information and transmits it to a third party, monitor Internet usage, such as websites visited, modify computer settings or deliver advertisements. This provision accomplishes a main goal of the Computer Software Privacy and Control Act.

H.R. 4661 strengthens criminal provisions in the Computer Fraud and Abuse Act. Providing necessary criminal penalties for spyware will help prevent this deceptive activity and protect the privacy of consumers. Our legislation includes provisions similar to this as well.

I am glad H.R. 2929 and H.R. 4661 require notice and consent and strengthen criminal provisions, and I urge my colleagues to support these important pieces of legislation.

Mr. GOODLATTE. Madam Speaker, I rise today to discuss H.R. 2929, the ''Safeguard Against Privacy Invasions Act.''

I believe that there is a need to impose appropriate civil penalties against those who use software to commit egregious acts against computer users. In that respect, the provisions in H.R. 2929 that impose civil penalties on the truly bad actors, including those who use spyware to take over a user's computer to send spam, or those who engage in keystroke logging to steal personal information, are a step in the right direction.

However, I also have concerns that portions of the bill cast too wide a net and that they would have unintended consequences that could penalize the legitimize software companies that are actually trying to play by the rules. Many provisions of this bill would not only encompass spyware, but also legitimate interactive software services. I oppose the provisions of this bill that stretch beyond punishing the truly bad actors and instead create a static regulatory regime in an industry that is always innovating and changing to respond to consumer demand.

Also, imposing a notice and consent requirement for most software that is loaded onto computers could create unintended consequences. Specifically, when consumers are faced with the multiple notices that would be required under this bill, they will likely become desensitized and stop reading the disclosure altogether. The result could be a heavy-handed regulation that does not even achieve the desired goals of informing consumers and protecting them from spyware, especially since the truly bad actors are likely to simply ignore these regulations.

I have introduced legislation, H.R. 4661, the Internet Spyware I-SPY Prevention Act, which impose tough criminal penalties on the most egregious purveyors of spyware without imposing a broad regulatory regime on legitimate software providers. I believe that this more targeted approach is the best way to combat spyware.

While I have serious reservations about many portions of H.R. 2929, I also believe that it contains many civil prohibitions that would help in the fight against spyware. I support this bill, not in its entirety, but as an acknowledgement that some civil penalties are appropriate in the fight against spyware when properly targeted. However, I remain concerned about the broad regulatory aspects of this legislation, and hope to continue working to ensure that the final legislation is appropriately targeted at the truly bad actors, and that it does not cast a broad regulatory burden on those who continue to innovate and create new and exciting services in the interactive software industry.

Ms. JACKSON-LEE of Texas. Madam Speaker, I join my colleagues today to support H.R. 2929. Persistent computer security vulnerabilities may expose U.S. critical infrastructure and government computer systems

to possible cyber attack by terrorists, possibly affecting the economy or other areas of national security. Because of the ubiquitous nature of the Internet, unprotected home computers—often lacking network security features, could be the entree for cyber attacks. Even when national security is not at issue, spyware programs could be used to harvest personal informaiton—such as bank or credit card account number and e-mail addresses—from computers. This information could be used subsequently in fraudulent criminal activities or in the sending of unauthorized SPAM e-mail messages.

Unwanted spyware programs can make changes to a computer that can be annoying and can cause the computer to slow down or crash. These programs have the ability to change the home page of a computer user's Web browser or search page, or add additional components to the browser that are unnecessary or unwanted. These programs could make it very difficult to change the settings back to the way they were originally.

This bill directs the Federal Trade Commission (FTC) to prohibit the transmission of an unauthorized spyware program to a covered computer over the Internet. The bill further establishes requirements for an affirmative agreement by the user of the covered computer to specifically agree the conditions of the transmission with an acknowledgement of the person and address of the transmitter.

The bill provides specific prohibitions on use of any spyware program for collecting any personally identifiable information from the covered computer unless notice is provided. The criminal penalties provided for in this act will help to provide a necessary enforcement mechanism.

I believe this is just one of the steps necessary to secure the nation's critical infrastructure and to help protect the privacy and civil liberties of Americans.

Mr. DINGELL. Madam Speaker, "Barbarians At the Digital Gate" recently warned the front page of the Sunday New York Times Business Section. What elicited this alarming headline? Pernicious computer software commonly called "spyware" and "adware".

These programs sneak onto your computer, and allow a third party to harvest your personal information. It is the equivalent of putting a wiretap on your phone and listening to your conversations. Adware tracks your Web surfing or online shopping so that marketers can send you unwanted ads. Spyware can hijack your computer to pornographic or gambling sites, or steal your passwords and credit card information.

The rapid proliferation of spyware and adware has brought Internet use to a crossroads. It threatens legitimate Internet commerce. Consumer complaints are deluging computer call centers and regulators. The most common complaints are: hijacked home pages, redirected Web searches, a flood of pop-up ads, and sluggish and crashed computers.

The bill, as amended, prohibits a number of deceptive acts or practices related to spyware, and provides for FTC enforcement and enhanced civil fines. It also recognizes that there are legitimate applications of spyware and, thus, exempts law enforcement, national security, network security, diagnostics and repair, and fraud detection from the SPY Act. It is a carefully balanced bill.

Most importantly, this legislation contains opt-in protection for consumers. It requires companies that distribute spyware and adware to obtain permission from consumers through an easily understood licensing agreement before installing spyware or adware on their computers. The programs, once downloaded, would have to provide a means to identify the spyware or adware and easily uninstall or disable it.

I also note that without aggressive enforcement, the goals of this bill will not be met. We are asking the FTC to do a great deal in a very complex area and I trust that the appropriators will provide them with sufficient resources to fulfill these tasks.

This legislation is supported by a coalition that includes: the Business Software Alliance, the Center For Democracy and Technology, the Council for Marketing and Opinion Research, Dell, eBay Inc., Humana Inc., Microsoft, 180 Solutions, Time Warner/AOL United States Telecom Association, WhenU, and Yahoo!—all of whom have submitted letters of support.

The bill has improved at every stage of its consideration, and I want to commend the leadership and hard work of Rep. BARTON, the Chairman of the Committee on Energy and Commerce, Reps. STEARNS and SCHAKOWSKY, the Chairman and Ranking Member, respectively, of the Commerce, Trade, and Consumer Protection Subcommittee, and Reps. BONO and TOWNS, the lead Republican and Democrat sponsors of the bill. I also commend the bipartisan staff team who worked very hard over the last five months to get this bill to the Floor this year; David Cavicke, Shannon Jacquot, Crhis Leahy, Brian McCullough, Will Carty, Jennifer Baird, Consuela Washington, Diane Beedle, and Andrew Delia.

I urge my Colleagues to vote "yes" on passage of H.R. 2929. It is a good bill. It's good for consumers. And it is good for honest commerce on the Internet.

Mr. GREEN of Texas. Madam Speaker, my interest in the consumer problem of spyware stems from many years of work on the consumer spam problem.

The anti-spam law was not expected to eliminate unwanted email, but it did draw a line for consumers—that some kinds of privacy invasion are not allowed. Internet Service Providers like Microsoft, AOL, Yahoo, and Earthlink along with State Attorney Generals are bringing serious actions against spammers who violate the law.

Spyware and illegal spam are not just problems of privacy and convenience, both can be the cause of viruses and other computer crimes.

Just like robbery and speeding have not been eliminated, neither will spam or spyware. But when something is harming social welfare and consumers are overwhelmed, and private sector solutions are not enough, then we need an enforceable standard.

This legislation prohibits the most commonly known deceptive acts and practices related to Spyware from tracking your web surfing habits to send you advertising to hijacking your passwords and credit care numbers.

However, while some use this technology to deceive and defraud us, this technology is also used to support our efforts in national security. This important use of technology is taken into consideration by this bill and exempts law enforcement, national security agencies, network security programs and diagnostics on repairs to our computers from the SPY Act.

In addition, state attorney generals will have the ability to enforce consumer protection laws against spyware and preserves state trespass, contract tort and fraud laws.

This legislation will draw a line that spying on Americans' computers will not be tolerated. Will some people continue to get away with it? Perhaps. But will some people be prosecuted and punished for violating our privacy? Absolutely.

Mr. BARTON of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2929.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BARTON of Texas. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING COMMUNITY ORGANIZATION OF PUBLIC ACCESS DEFIBRILLATION PROGRAMS

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 250) recognizing community organization of public access defibrillation programs.

The Clerk read as follows:

H. CON. RES. 250

Whereas coronary heart disease is the single leading cause of death in the United States;

Whereas every two minutes, an individual suffers from cardiac arrest in the United States, and 250,000 Americans die each year from cardiac arrest out of hospital;

Whereas the chance of survival for a victim of cardiac arrest diminishes by ten percent each minute following sudden cardiac arrest;

Whereas 80 percent of cardiac arrests are caused by ventricular fibrillation, for which defibrillation is the only effective treatment;

Whereas 60 percent of all cardiac arrests occur outside the hospital, and the average national survival rate for an out-of-hospital victim of cardiac arrest is only five percent;

Whereas automated external defibrillators (AEDs) make it possible for trained non-medical rescuers to deliver potentially life-saving defibrillation to victims of cardiac arrest;

Whereas public access defibrillation (PAD) programs train non-medical individuals to use AEDs;

Whereas communities that have established and implemented PAD programs that make use of AEDs have achieved average survival rates as high as 50 percent for those individuals who have suffered an out-of-hospital cardiac arrest;

Whereas successful PAD programs ensure that cardiac arrest victims have access to

early 911 notification, early cardiopulmonary resuscitation, early defibrillation, and advanced care;

Whereas schools, sports arenas, large hotels, concert halls, high-rise buildings, gated communities, buildings subject to high-security, and similar facilities can benefit greatly from the use of AEDs as part of a PAD program, since it often takes additional and therefore critical time for emergency medical personnel to respond to victims of cardiac arrest in these areas;

Whereas according to the American Heart Association, widespread use of defibrillators could save as many as 50,000 lives nationally each year;

Whereas the Aviation Medical Assistance Act of 1998 (Public Law 105–170; 49 U.S.C. 44701 note) authorized AEDs to be carried and used aboard commercial airliners;

Whereas the Cardiac Arrest Survival Act of 2000 (Public Law 106–505; 42 U.S.C. 238p–238q) and the Rural Access to Emergency Devices Act (Public Law 106–505, 42 U.S.C. 254c note) provided for the placement of AEDs in Federal office buildings and increased access to AEDs in rural communities;

Whereas the Community Access to Emergency Defibrillation Act of 2001 (Public Law 107–188; 42 U.S.C. 244–245) authorized the development and implementation of PAD projects;

Whereas the Automatic Defibrillation in Adam's Memory Act (presented to the President for his signature on June 20, 2003) authorizes the use of grant funds to establish an information clearinghouse to provide information to increase public access to defibrillation in schools; and

Whereas Summit County, Ohio serves as an inspiring model for communities across the United States by providing access to AEDs in all of the county's 59 middle and high schools, in 47 city buildings and community centers, in 17 police departments, and in seven buildings at the University of Akron: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the growing number of community activists, organizations, and municipal governments leading the national effort to establish public access defibrillation (PAD) programs; and

(2) encourages the continued development and implementation of PAD programs in schools, sports arenas, large hotels, concert halls, high-rise buildings, gated communities, buildings subject to high-security, and similar facilities to increase the survival rate for victims of cardiac arrest.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 250.

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

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Con. Res. 250 which recognizes community organization of public access defibrillation programs. The Committee on Energy and Commerce favorably reported this resolution by voice vote last week.

Coronary heart disease continues to be the leading cause of death in the United States. It is often the case that lives are either saved or lost in those first few critical moments when an individual suffers from cardiac arrest. Fortunately, medical technology and life-saving equipment are improving every day. New, portable medical devices called ''automated external defibrillators'' are often used to deliver life-saving treatment on the scene.

I can give a personal example of an individual in my district, Mr. Gary Terry, who was going through the Austin airport several years ago when he suffered a massive heart attack just as he went through security checkpoint. Luckily, the city of Austin had just installed these defibrillators at the airport, and it has on videotape the emergency technicians grabbing the defibrillator, putting it on Mr. Terry's chest and literally bringing him back to life. Mr. Terry is alive and well today because one of these devices was in the Austin international airport in Austin, Texas.

Over the past 6 years, Congress has enacted several laws to expand the use of automatic external defibrillators. H. Con. Res. 250 recognizes the growing number of community activist organizations and municipal governments leading the national effort to establish public access defibrillation programs and encourages the continued development and implementation of programs in a variety of community venues.

Madam Speaker, I would urge that all Members adopt this resolution. Also, I want to thank my good friend, the gentleman from Ohio (Mr. BROWN), for his sponsorship of this legislation. It shows his commitment to a healthier community that he would take the time to be the leader on this important legislation.

Madam Speaker, I reserve the balance of my time.

□ 1530

Mr. BROWN of Ohio. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, heart disease kills more Americans than any other condition. Nearly a quarter of a million Americans die from cardiac arrest every year. The American Heart Association, which supports this resolution, estimates that with widespread access to and use of defibrillation, 50,000 of those lives could be saved every year.

We are starting to see real success in ensuring that there are defibrillators in major public places in this country. In Summit County, in my district, a successful effort led by Dr. Terry Gordon has resulted in public defibrillators in all of the county's 59 middle schools and high schools, and in 23 other public buildings, coverage that probably is unprecedented in the United States.

As these efforts continue, we are making strides towards public access defibrillation in all major public venues, in schools and sports arenas, in large hotels, in concert halls, in high-rise buildings, in gated communities and high-security companies.

Currently, 60 percent of heart attacks take place in venues like these outside of hospitals, and the survival rate for these attacks is only around 5 percent. Public access to defibrillation programs provide defibrillators to facilities and train nonmedical personnel in how to use a defibrillator. If administered within 3 minutes of a victim collapsing from cardiac arrest, a defibrillator can increase the patient's survival rate, it is estimated, by 70 percent.

Knowing these statistics, Madam Speaker, it is clear we can do better in preventing death from cardiac arrest. This House can begin by fully funding the Community and Rural Defibrillation Program for fiscal year 2005.

My colleagues, the gentlewoman from California (Mrs. CAPPS), the gentleman from Illinois (Mr. SHIMKUS), along with the gentleman from Georgia (Mr. DEAL) and the gentleman from Wisconsin (Mr. KIND), and especially the gentleman from Florida (Mr. STEARNS) have been champions of these important programs, and it is critical their funding levels be maintained.

Madam Speaker, I thank the gentleman from Texas (Mr. BARTON), our chairman, and the ranking member, the gentleman from Michigan (Mr. DINGELL) of the Committee on Energy and Commerce, as well as my colleague and friend, the gentleman from Florida (Mr. BILIRAKIS) for bringing this measure up for consideration before the House today. It is an important bill that will save lives. This will matter to the lives of family members of so many Americans.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. STEARNS), one of our subcommittee chairmen.

Mr. STEARNS. Madam Speaker, I thank the distinguished chairman for yielding me this time, and I rise in support and as a cosponsor of H. Con. Res. 250, recognizing public access defibrillation, or PAD, programs.

My colleagues, years ago I had the opportunity and honor to work with the American Heart Association and we developed legislation addressing sudden cardiac arrest along with the gentlewoman from California (Mrs. CAPPS). This cooperation led to the Cardiac Arrest Survival Act. After years of work, the provisions from the Cardiac Arrest Survival Act were combined with other health care provisions in H.R. 2498, and finally enacted in 2000 as the Public Health Improvement Act.

This law directs the Secretary of Health and Human Services to simply

develop guidelines for the placement of defibrillators in public buildings. It also directs Health and Human Services to consult with and counsel other Federal agencies where such devices are to be used.

Now, a number of agencies have initiated the program, including Labor, HHS, Commerce, GSA, and IRS. These public access defibrillation programs, PADs, vary with occupancy of the building, building size and other characteristics.

Since last winter, the gentlewoman from California (Mrs. CAPPS) and I have been working with the Architect of the Capitol and the Office of the Attending Physician to consider the implementation of a PAD program throughout the United States Capitol complex to help save lives for the people that visit our Capitol in and around this area. The hard-working staff, employees of the U.S. Congress, and the many visitors should be afforded the same protection as citizens employed by or visiting other Federal facilities implementing PAD programs.

We are finding that the biggest area of discussion from building supervisors at both the executive branch and here in the Capitol is the ongoing maintenance of the AEDs and the program once they are in place. Now, thanks to our persistence, I am pleased to share that each Chamber's Legislative Branch Appropriations bill for fiscal year 2005 has included $1 million in funding for installation and annual maintenance of hundreds and hundreds of defibrillators around the Capitol complex.

This is good, good news, and I am very pleased to cosponsor the legislation of my colleague, the gentleman from Ohio (Mr. BROWN), and I commend him for his active participation on this.

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

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume to just ask that we strongly support the Sherrod Brown bill.

Mr. BARTON of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 250.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT PRIVATE HEALTH INSURANCE COMPANIES SHOULD TAKE A PROACTIVE ROLE IN PROMOTING HEALTHY LIFESTYLES

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 34) expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 34

Whereas Secretary of Health and Human Services Tommy Thompson acknowledges that $270,000,000,000 in health costs are caused by preventable diseases, including $183,000,000,000 for heart disease alone, and has called current policies of insurance companies ''wrongheaded'' for not doing more to encourage people to stay healthy to prevent expensive illnesses;

Whereas obesity increases the risk of illness from more than 30 medical conditions, including heart disease, cancer, stroke, chronic obstructive pulmonary disease, and diabetes, which account for 2/3 of all deaths in the United States;

Whereas 61 percent of adults in the United States (120,000,000 people) are above their target weight, and 13 percent of children and adolescents in the United States are obese or overweight, a figure that has tripled since 1980;

Whereas from age 50 to 70, those who do not perform strength training lose a quarter to a third of a pound of muscle every year and gain the same amount in body fat;

Whereas weight training is proven to increase bone density and reduce osteoporosis among men and women over 50 years old;

Whereas if the more than 88,000,000 inactive adults in the United States began regular exercise, national medical costs would decrease by more than $76,000,000,000 each year;

Whereas on June 20, 2002, President George W. Bush launched the Healthier US fitness initiative to promote a healthy lifestyle and encourage people in the United States to increase their physical fitness; and

Whereas providing incentives for exercise and strength training would help more people become active and healthy and would decrease national medical costs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress commends Secretary of Health and Human Services Tommy Thompson for his efforts to encourage private health insurance companies to take action to encourage people in the United States to lead active lifestyles;

(2) it is the sense of the Congress that private health insurance companies should—

(A) do more to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illnesses;

(B) provide discounted premiums to those who exercise regularly; and

(C) encourage frequent screening for diseases that are easily treatable in their early stages; and

(3) the Congress applauds private health insurance companies that are already taking these actions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 34, the bill now under consideration.

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

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the gentlewoman from Missouri (Ms. MCCARTHY) for sponsoring this legislation. I think its basic intent, that is, as a Nation we need to do more ourselves to promote healthy lifestyles, is extremely sound. I know insurance companies are already doing just that in this area.

I believe that what the insurance companies are doing is being very constructive. I also know there are limitations on what we can legitimately expect insurance companies to do. Individual and family responsibility remains the key and cannot be replaced by laws and resolutions.

Having said that, I would like to take a moment to thank my good friend, the gentlewoman from Missouri (Ms. MCCARTHY), for her service to this House and her leadership on this issue. She will be leaving us after the conclusion of this Congress, and she will be missed. She has been a valuable member of the Committee on Energy and Commerce. Her brightness and her willingness to work in a bipartisan fashion across the aisle have helped move numerous pieces of legislation, and we will certainly miss her as we hopefully start the next Congress.

Today, we are here to support her as she brings this important resolution to the floor of the House of Representatives. She has been a tireless leader on this issue, and I think it is a fitting tribute to her that we bring this bill to the floor. The people of the Fifth District of Missouri should be very grateful for her service to the country.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, I want to join the gentleman from Texas (Mr. BARTON), our chairman, in thanking the gentlewoman from Missouri (Ms. MCCARTHY) for her good work, not just on this legislation, but her years of service to this Congress, and especially her years of participation on the Committee on Energy and Commerce and her good work there on a whole myriad of issues. I especially, as I said, want to thank her for her work on this resolution, which encourages private health insurance companies to take a more proactive role in promoting healthy lifestyles.

The number of Americans who are overweight and obese continues to rise. Obesity is problematic in large part because of the myriad of health complications it can cause.

It is appropriate that health insurance companies, along with doctors, public officials, and community leaders, encourage people in the United States to lead healthier lifestyles. Moderate weight loss of 5 to 10 pounds can lower the risk of cardiovascular disease, reduce high blood sugar, and help prevent other health conditions associated especially with obesity.

Making prevention work and encouraging healthy lifestyles requires cooperation from all parties involved in health care, including insurance carriers, and I am pleased to support the gentlewoman's resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Madam Speaker, I thank the distinguished chairman for yielding me this time, and the gentlewoman from Missouri (Ms. MCCARTHY) for her 10 years of service here in the House. I have been here the whole time she has been here. She has grace and is decent and kind and has done an outstanding job for her people back in Missouri.

This is a very important issue. I founded the Congressional Fitness Caucus 2 years ago, and cochair it with the gentleman from Colorado (Mr. UDALL) for this exact same purpose, to try to encourage healthier lifestyles all across the country, particularly with young people, but especially here, where health insurance companies can join us and fight the obesity epidemic. Madam Speaker, Type 2 diabetes is climbing in this country.

The human body is made to move. People need to watch what they eat and live healthier lives. We need to encourage it, and the entire health care delivery system needs to kind of change its approach to more preventive care; emphasizing maintenance, checkups, and all kinds of ways to take better care of ourselves to lower health care costs.

There is no way Medicare and Medicaid, which are the Federal Government's responsibilities, can sustain the trends we see today in chronic health care problems associated with obesity. It is now on a par with tobacco as the number one killer in America, obesity-related illnesses. We have to get our arms around it. But I think it is going to take changing the paradigm and the culture, and it is going to take a national campaign.

I, too, want to commend Secretary Tommy Thompson. He got his own body in better shape and now he is leading by example and carrying this message. The President is probably the most fit President in the history of our country. We all need to use our own walk to exhort the advantages of just moderate increases in physical activity and better diet and nutrition.

Health insurance agencies or companies stand to gain a lot from their bottom line by promoting wellness, a holistic approach to better living. We can all take simple steps. America on the Move is a national program that Secretary Thompson helped start.

In Tennessee, where I am from, we are towards the bottom in terms of health. We are in the fried chicken belt. But we have Tennessee on the Move, which is a grass-roots effort to promote wellness and physical activity. Again, this is going to have to be done on a variety of fronts across the country, so that all these little fires will burn together for a healthier America.

I cannot think of a better legacy for my colleague from Missouri to leave than to encourage people to live a healthier life, to enjoy the quality of life, better sleep, increased productivity in the private sector and in all of our lives, but particularly with our children. They need to know the consequences early on of inactivity and a sedentary lifestyle. Get out of doors. Go play the game. Do not play it on the video; go play it yourself. We need to encourage more physical activity.

Again, this human body, all human bodies, were made to move. Burn more calories and ingest fewer calories. With small, simple steps we will not face the problems associated with obesity in the future.

Madam Speaker, this is a bipartisan effort and I thank the gentlewoman from Missouri for leading this effort.

Mr. BROWN of Ohio. Madam Speaker, I yield 7 minutes to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Madam Speaker, I rise today in support of House Concurrent Resolution 34, a sense of the Congress encouraging health insurance companies to take a more proactive role in promoting physical activity that prevents stroke, high blood pressure, and other life-threatening diseases.

The U.S. Department of Health and Human Services acknowledges that $270 billion in health care costs are caused by preventable diseases, including $180 billion for heart disease alone. Research by the Harvard School of Public Health noted that the closest thing to a magic bullet for treating this epidemic is exercise. It is estimated that if the more than 88 million inactive adults in the United States began regular exercise, national medical costs would decrease by more than $76 billion each year.

According to the Department of Health and Human Services, two-thirds of all deaths in the United States are caused by obesity, a disease that increases the risk of illness for more than 30 medical conditions, including heart disease, cancer, stroke, chronic obstructive pulmonary disease, and diabetes.

□ 1545

Sixty-one percent of American adults are above their target weight, and 9 million school children are overweight, a figure that has tripled since 1980. A report by the Centers for Disease Control and Prevention found that walking and bicycling among children age 5 to 15 dropped 40 percent between 1977 and 1995, and school budget constraints have led to the suspension of physical education classes across America.

In 2003, the Centers for Disease Control and Prevention declared obesity the most important public health issue facing the United States. As Dr. Jeffrey Koplan, a former director of the Centers for Disease Control and Prevention, noted in a recent report on childhood obesity, ''Obesity is a personal issue, but at the same time, families, communities and corporations all are adversely affected by obesity, and all bear responsibility for changing social norms to better promote healthier lifestyles.'' Children and teenagers are contracting diabetes at a rapidly increasing pace. Dr. Kenneth Cooper, one of the Nation's foremost experts on physical activity, noted, ''We may have the first generation in which parents will outlive their kids,'' referring to the reduced life expectancy of children who develop diabetes before age 14.

The measure before us today expresses the sense of Congress that health insurance companies can do more to encourage healthier, more active lifestyles and urges them to consider incentives for those who choose to exercise regularly. I applaud the insurance providers and companies who already recognize the benefits of a healthy public, as does this resolution. These insurers offer incentives for getting active. Blue Cross and Blue Shield of Kansas City, for example, offers a free Walking Works program to employees and policyholders. In addition to helping plan a daily walking routine, Walking Works provides discounts on walking shoes and pedometers. Cigna offers discounts on subscriptions to health-related magazines, and Aetna provides discounts for home exercise equipment. Kaiser Permanente and Aetna here in Washington offer dues reductions of up to 60 percent at more than 90 area gyms. Obese Americans who take drastic, expensive action to lose weight under a doctor's orders are currently able to lighten their Federal tax load.

The Surgeon General recommends daily exercise consisting of 30 minutes of walking or the equivalent, but 75 percent of Americans fail to meet this standard. A recent Harvard study found that, among healthy people, exercise can raise levels of HDL, known as good cholesterol, which improves clotting factors, lowers blood pressure and decreases inflammation. The study found that there is nothing else that has stronger and quicker effects than physical activity for preventing diabetes. Exercise can change virtually every tissue in the body. A German study comparing exercise and Viagra in treating erectile dysfunction found that an exercise regimen consisting of

squatting exercises and pelvic and leg lifts is more effective in treating the condition than medication.

Health and Human Services Secretary Tommy Thompson has called the current policies of insurance companies ''wrongheaded'' for not doing more to encourage people to stay healthy to prevent expensive illnesses. H. Con. Res. 34 commends Secretary Thompson for his efforts to promote incentives for Americans to lead an active life. Just two weekends ago, Secretary Thompson, along with Agriculture Secretary Ann Veneman, Education Secretary Rod Paige and Surgeon General Richard Carmona, fanned out across our country announcing healthier U.S. grants. The Federal funds will aid in disease prevention or management programs, many aimed at promoting exercise, like an afterschool health club pilot program for children at risk for asthma, diabetes and obesity, and that is going to Philadelphia.

I would like to thank the gentleman from Texas (Mr. BARTON) of the Committee on Energy and Commerce for his kind remarks and help in this effort along with the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), my cosponsors from both sides of the aisle like the gentleman from Kansas (Mr. RYUN) who spoke on behalf of this measure earlier in the day, and more than 20 organizations including the American Heart Association and the YMCA that support H. Con. Res. 34. I urge the House to adopt this measure and continue fiscally responsible policies to reduce the billions in health care costs currently spent on preventable diseases.

Mr. BROWN of Ohio. Madam Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

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

Madam Speaker, I rise today to join the gentlewoman from Missouri (Ms. MCCARTHY) in urging the passage of House Concurrent Resolution 34, a resolution expressing the sense of Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles.

Madam Speaker, we know as a society that our lifestyle choices disproportionately account for the excess death and disease burden in this country. Recent studies have documented that of the top 10 killers in America, many such as heart disease, injuries, diabetes, HIV/AIDS, strong perinatal conditions and lung diseases can be reduced or eliminated through healthy lifestyle choices.

I want to take this opportunity to commend and thank the gentlewoman from Missouri for introducing this important piece of legislation. As chair of the Health Brain Trust of the Congressional Black Caucus, I know that it can help my constituents, African-Americans in this country, all people of color and all Americans who are fortunate enough to have health insurance.

Recently, the Center for Research in Nutrition and Health Disparities at the University of South Carolina noted that, in the 20th century, public health advances eradicated diseases through sanitation, immunizations, health education and advances in medical technology. This led to enormous improvements in people's lives. However, the 21st century has brought a new set of public health challenges which include tobacco- and alcohol-related diseases as well as sexually transmitted ones. We have also seen that sedentary lifestyles and diets high in calorie-rich foods have produced a generation of Americans who are increasingly obese. The health problems associated with weight-related diseases are multiplying by epidemic proportions.

Madam Speaker, between 50 and 66 percent of African-American women can be classified as being overweight. More than 2.8 million, or 13 percent of African-Americans, also have diabetes. Finally, we and other people of color suffer disproportionately from complications and death due to this illness. We also know that lifestyle choices relating to poor nutrition and obesity can be associated with three of the other 10 leading causes of death, heart disease, stroke and cancer.

It is clear that we need all hands on deck to address this health care crisis in our country. That is why I am urging my colleagues to support House Concurrent Resolution 34 which urges private health insurance companies to do more to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illness; two, to provide discounted premiums to those who exercise regularly; and three, to encourage frequent screening for diseases that are easily treatable in their early stages. We still have to do more to cover everyone and to pay providers for their time spent in counseling patients on good disease prevention and health promotion, but, Madam Speaker, House Concurrent Resolution 34 is a step in the right direction by giving the insurance industry a stake in the fight to eliminate health care disparities, to ensure better health for all Americans and to reduce the skyrocketing costs of health care. I urge my colleagues to support it.

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

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to support the bill of the gentlewoman from Missouri, but I also, as we wrap up, want to reflect on what we have just seen on the House floor. We have just debated nine bills on suspension that have come out of the Committee on Energy and Commerce, and in a year in which a lot of the public thinks that all we do is fight each other on the House floor and get enraged at each other and confront each other, I want the country to know that there is another side to this Congress. We can have equality and cooperation. We have seen that today.

We have just had nine bills put on the suspension calendar. When it goes on the suspension calendar, what it means is that the majority and the minority both at the committee level and at the leadership level agree to put the bill on the floor. It also means that you have to get a two-thirds vote to pass. In the nine bills that we have just debated, some of them are substantive bills. We have a bill that deals with asthma that I consider to be very substantive. We had a bill that deals with islet cell transplantation that is very substantive. We have a reauthorization of the Mammography Quality Control Screening Act by the gentleman from Michigan (Mr. DINGELL) that is obviously substantive. We have a brand new patient navigator bill that the gentleman from New York (Mr. TOWNS) and the gentlewoman from Ohio (Ms. PRYCE) put together. We have a bill for defibrillation that the gentleman from Ohio (Mr. BROWN) has authored. We have a prescription drug monitoring bill that the gentleman from Georgia (Mr. NORWOOD), the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Kentucky (Mr. WHITFIELD) have worked together on in a bipartisan basis. These are substantive bills. It shows that we can cooperate. It shows that we can work together. We also had, it is not a health-related bill but the spyware bill that the gentlewoman from California (Mrs. BONO) and the gentleman from New York (Mr. TOWNS) worked on shows that, in the area of technology, we can work together.

I hope that we showed the country that the Committee on Energy and Commerce, the ''e'' and ''c'' does stand for equality and cooperation, and that this is a precursor of what is to come in the next Congress. I urge support of the McCarthy bill.

Ms. JACKSON-LEE of Texas. Madam Speaker, I join my colleagues today to support H. Con. Res. 34 calling for private health insurance companies to take action to encourage people in the United States to lead active lifestyles. A report from the Centers for Disease Control and Prevention, CDC, shows about one in five American adults engage in a high level of overall physical activity, including both activity at work and during leisure time. At the other end of the spectrum, about one in four American adults engage in little or no regular physical activity.

Physical activity whether it is walking the dog or simply taking the stairs at work is essential to good health. This CDC study helps give us an even fuller picture of our physical activity status. It confirms that we need to pay more attention to getting adequate physical activity and reversing the alarming rise in obesity that we've experienced nationally during the past decade.

Research has shown that people who are usually inactive can improve their health and

well-being by becoming even moderately active on a regular basis, and that physical activity need not be strenuous to achieve health benefits.

Insurance providers need to help to promote fitness activities to their patients. Statistics in the United States make this clear: 61 percent of adults in the United States are above their target weight, and 13 percent of children and adolescents in the United States are obese or overweight, a figure that has tripled since 1980. In addition to the health consequences, the economic projections are staggering. One study indicates that if the 88,000,000 inactive adults in the United States began regular exercise, national medical costs would decrease by more than $76 billion.

The government and the insurance companies need to send a clear message that everybody benefits from improved fitness and exercise. While the Internal Revenue Code of 1986 provides tax incentives for taxpayers who are obese, it does not provide such incentives for those who are active and healthy.

I believe that insurance companies should my colleagues gathered here today to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illnesses; to provide discounted premiums to those who exercise regularly; and to cover and encourage frequent screening for diseases that are easily treatable in their early stages.

Mr. DAVIS of Illinois. Madam Speaker, the percentage of children and adolescents who are defined as overweight has more than doubled since the early 1970s with nearly 15 percent of children and adolescents now being overweight.

Congress has asked our schools to encourage health eating and physical activity to decrease the obesity epidemic in our Nation. We have encouraged our physicians to educate our constituents and parents to be better eating role models to their children. The CDC has even stated to begin to stop and reverse this upward obesity trend "will require effective collaboration among government, voluntary, and private sectors, as well as a commitment to action by individuals and communities across the Nation". It then only makes sense that we now ask the insurance industry to join us in the fight to reduce obesity in our country.

As we know, there are serious health consequences that are caused when an individual is overweight or obese such as high blood pressure, Type 2 diabetes, congestive heart failure, stroke, as well as some types of cancer. These can all be very costly diseases, especially if they are not managed correctly. According to a study of national costs attributed to both overweight and obesity, medical expenses accounted for 9.1 percent of total U.S. medical expenditures in 1998 and may have reached as high as $78.5 billion. Approximately half of these costs were paid by Medicaid and Medicare.

Madam Speaker, I urge my colleagues to support this legislation.

Mr. BARTON of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 34, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SAFE AND TIMELY INTERSTATE PLACEMENT OF FOSTER CHILDREN ACT OF 2004

Mr. HERGER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4504) to improve protections for children and to hold States accountable for the orderly and timely placement of children across States lines, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4504

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe and Timely Interstate Placement of Foster Children Act of 2004".

SEC. 2. SENSE OF THE CONGRESS.

(a) FINDING.—The Congress finds that the Interstate Compact on the Placement of Children (ICPC) was drafted more than 40 years ago, is outdated, and is a barrier to the timely placement of children across State lines.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the States should expeditiously revise the ICPC to better serve the interests of children and reduce unnecessary work, and that the revision should include—

(1) limiting its applicability to children in foster care under the responsibility of a State, except those seeking placement in a licensed residential facility primarily to access clinical mental health services; and

(2) providing for deadlines for the completion and approval of home studies as set forth in section 4.

SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE PLACEMENT OF CHILDREN.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following:

"(25) provide that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact approved by the Secretary, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph.".

SEC. 4. HOME STUDIES.

(a) ORDERLY PROCESS.—

(1) IN GENERAL.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is further amended—

(A) by striking "and" at the end of paragraph (24);

(B) by striking the period at the end of paragraph (25) and inserting "; and"; and

(C) by adding at the end the following:

"(26) provides that—

"(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the appropriateness of placing a child in the home, the State shall, directly or by contract—

"(I) conduct and complete the study; and

"(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and

"(ii) in the case of a home study begun on or before September 30, 2006, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check, or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

"(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

"(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

"(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A).".

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State should—

(A) use private agencies to conduct home studies when doing so is necessary to meet the requirements of section 471(a)(26) of the Social Security Act; and

(B) give full faith and credit to any home study report completed by any other State or an Indian tribe with respect to the placement of a child in foster care or for adoption.

(b) TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670–679b) is amended by inserting after section 473A the following:

"SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.

"(a) GRANT AUTHORITY.—The Secretary shall make a grant to each State that is a home study incentive-eligible State for a fiscal year in an amount equal to the timely interstate home study incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

"(b) HOME STUDY INCENTIVE-ELIGIBLE STATE.—A State is a home study incentive-eligible State for a fiscal year if—

"(1) the State has a plan approved under this part for the fiscal year;

"(2) the State is in compliance with subsection (c) for the fiscal year; and

"(3) based on data submitted and verified pursuant to subsection (c), the State has completed a timely interstate home study during the fiscal year.

"(c) DATA REQUIREMENTS.—

"(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the

State has provided to the Secretary a written report, covering the preceding fiscal year, that specifies—

''(A) the total number of interstate home studies requested by the State with respect to children in foster care under the responsibility of the State, and with respect to each such study, the identity of the other State involved; and

''(B) the total number of timely interstate home studies completed by the State with respect to children in foster care under the responsibility of other States, and with respect to each such study, the identity of the other State involved.

''(2) VERIFICATION OF DATA.—In determining the number of timely interstate home studies to be attributed to a State under this section, the Secretary shall check the data provided by the State under paragraph (1) against complementary data so provided by other States.

''(d) TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—The timely interstate home study incentive payment payable to a State for a fiscal year shall be $1,500, multiplied by the number of timely interstate home studies attributed to the State under this section during the fiscal year, subject to paragraph (2).

''(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—If the total amount of timely interstate home study incentive payments otherwise payable under this section for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year (reduced (but not below zero) by the total of the amounts (if any) payable under paragraph (3) of this subsection with respect to the preceding fiscal year), the amount of each such otherwise payable incentive payment shall be reduced by a percentage equal to—

''(A) the total of the amounts so made available (as so reduced); divided by

''(B) the total of such otherwise payable incentive payments.

''(3) APPROPRIATIONS AVAILABLE FOR UNPAID INCENTIVE PAYMENTS FOR PRIOR FISCAL YEARS.—

''(A) IN GENERAL.—If payments under this section are reduced under paragraph (2) or subparagraph (B) of this paragraph for a fiscal year, then, before making any other payment under this section for the next fiscal year, the Secretary shall pay each State whose payment was so reduced an amount equal to the total amount of the reductions which applied to the State, subject to subparagraph (B) of this paragraph.

''(B) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—If the total amount of payments otherwise payable under subparagraph (A) of this paragraph for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year, the amount of each such payment shall be reduced by a percentage equal to—

''(i) the total of the amounts so made available; divided by

''(ii) the total of such otherwise payable payments.

''(e) 2-Year AVAILABILITY OF INCENTIVE PAYMENTS.—Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the next fiscal year.

''(f) LIMITATIONS ON USE OF INCENTIVE PAYMENTS.—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

''(g) DEFINITIONS.—In this section:

''(1) HOME STUDY.—The term 'home study' means a study of a home environment, conducted in accordance with applicable requirements of the State in which the home is located, for the purpose of assessing whether placement of a child in the home would be appropriate for the child.

''(2) INTERSTATE HOME STUDY.—The term 'interstate home study' means a home study conducted by a State at the request of another State, to facilitate an adoptive or relative placement in the State.

''(3) TIMELY INTERSTATE HOME STUDY.—The term 'timely interstate home study' means an interstate home study completed by a State if the State provides to the State that requested the study, within 30 days after receipt of the request, a report on the results of the study. The preceding sentence shall not be construed to require the State to have completed, within the 30-day period, the parts of the home study involving the education and training of the prospective foster or adoptive parents.

''(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For payments under this section, there are authorized to be appropriated to the Secretary—

''(A) $10,000,000 for fiscal year 2005;

''(B) $10,000,000 for fiscal year 2006;

''(C) $10,000,000 for fiscal year 2007; and

''(D) $10,000,000 for fiscal year 2008.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.''.

(c) REPEALER.—Effective October 1, 2008, section 473B of the Social Security Act is repealed.

SEC. 5. REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK CHILD ABUSE REGISTRIES; SUSPENSION AND SUBSEQUENT ELIMINATION OF OPT-OUT.

(a) REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK CHILD ABUSE REGISTRIES; SUSPENSION OF OPT-OUT.—

(1) REQUIREMENT TO CHECK CHILD ABUSE REGISTRIES.—Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking ''on whose behalf foster care maintenance payments or adoption assistance payments are to be made'' and inserting ''regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child'';

(ii) in each of clauses (i) and (ii), by inserting ''involving a child on whose behalf such payments are to be so made'' after ''in any case''; and

(iii) by striking ''and'' at the end of clause (ii); and

(B) by adding ''and'' at the end of subparagraph (B); and

(C) by adding at the end the following:

''(C) provides that the State shall—

''(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

''(ii) comply with any request described in clause (i) that is received from another State; and

''(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;''.

(2) SUSPENSION OF OPT-OUT.—Section 471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B)) is amended—

(A) by inserting '', on or before September 30, 2004,'' after ''plan if''; and

(B) by inserting '', on or before such date,'' after ''or if''.

(b) ELIMINATION OF OPT-OUT.—Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)), as amended by subsection (a) of this section, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''unless an election provided for in subparagraph (B) is made with respect to the State,''; and

(B) by adding ''and'' at the end of clause (ii); and

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

SEC. 6. COURTS ALLOWED ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE TO LOCATE PARENTS IN FOSTER CARE OR ADOPTIVE PLACEMENT CASES.

Section 453(c) of the Social Security Act (42 U.S.C. 653(c)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) any court which has authority with respect to the placement of a child in foster care or for adoption, but only for the purpose of locating a parent of the child.''.

SEC. 7. CASEWORKER VISITS.

(a) PURCHASE OF SERVICES IN INTERSTATE PLACEMENT CASES.—Section 475(5)(A)(ii) of the Social Security Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking ''or of the State in which the child has been placed'' and inserting ''of the State in which the child has been placed, or of a private agency under contract with either such State''.

(b) INCREASED VISITS.—Section 475(5)(A)(ii) of such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking ''12'' and inserting ''6''.

SEC. 8. HEALTH AND EDUCATION RECORDS.

Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)(C)—

(A) by striking ''To the extent available and accessible, the'' and inserting ''The''; and

(B) by inserting ''the most recent information available regarding'' after ''including''; and

(2) in paragraph (5)(D)—

(A) by inserting ''a copy of the record is'' before ''supplied''; and

(B) by inserting '', and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law'' before the semicolon.

SEC. 9. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.

(a) IN GENERAL.—Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended—

(1) by striking ''an opportunity'' and inserting ''a right'';

(2) by striking ''and opportunity'' and inserting ''and right''; and

(3) by striking ''review or hearing'' each place it appears and inserting ''proceeding''.

(b) NOTICE OF PROCEEDING.—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting ''shall have in effect a rule requiring State courts to notify foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State of any proceeding to be held with respect to the child, and'' after ''highest State court''.

SEC. 10. COURT IMPROVEMENT.

Section 438(a)(1) of the Social Security Act (42 U.S.C. 629h(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (C); and

(2) by adding at the end the following:

''(E) that determine the best strategy to use to expedite the interstate placement of children, including—

''(i) requiring courts in different States to cooperate in the sharing of information;

''(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

''(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and''.

SEC. 11. REASONABLE EFFORTS.

(a) IN GENERAL.—Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting ''(including, if appropriate, through an interstate placement)'' after ''accordance with the permanency plan''.

(b) PERMANENCY HEARING.—Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting '', which considers in-State and out-of-State permanent placement options for the child,'' before ''shall''.

(c) CONCURRENT PLANNING.—Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting '', including identifying appropriate out-of-State relatives and placements'' before ''may''.

SEC. 12. CASE PLANS.

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting ''to facilitate orderly and timely in-State and interstate placements'' before the period.

SEC. 13. CASE REVIEW SYSTEM.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C) is amended—

(1) by inserting '', in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options,'' after ''living arrangement''; and

(2) by inserting ''the hearing shall determine'' before ''whether the''.

SEC. 14. USE OF INTERJURISDICTIONAL RESOURCES.

Section 422(b)(12) of the Social Security Act (42 U.S.C. 622(b)(12)) is amended—

(1) by striking ''develop plans for the'' and inserting ''make'';

(2) by inserting ''(including through contracts for the purchase of services)'' after ''resources''; and

(3) by inserting '', and shall eliminate legal barriers,'' before ''to facilitate''.

SEC. 15. GAO STUDY ON CHILD WELFARE BACKGROUND CHECKS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background checks that are performed for the purpose of determining the appropriateness of placing in a foster or adoptive home a child who is under the custody of a State. The study shall review the policies and practices of States in order to—

(1) identify the most common delays in the background clearance process and where in the process the delays occur;

(2) describe when background checks are initiated;

(3) determine which of local, State, or Federal (such as FBI) background checks are used, how long it takes, on average, for each kind of check to be processed, which crimes or other events are included in each kind of check, how the States differ in classifying the crimes and other events checked, and how the information revealed by the checks is used in determining eligibility to act as a foster or adoptive parent;

(4) examine the barriers child welfare agencies face in accessing criminal background check information;

(5) examine the use of the latest information-sharing technology, including electronic fingerprinting and participation in the Integrated Automated Fingerprinting Information System;

(6) identify the varied uses of such technology for child welfare purposes as opposed to criminal justice purposes; and

(7) recommend best practices that can increase the speed, efficiency, and accuracy of child welfare background checks at all levels of government.

(b) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Ways and Means and on Education and the Workforce of the House of Representatives and the Committees on Finance and on Health, Education, Labor, and Pensions of the Senate a report which contains the results of the study required by subsection (a).

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall take effect on October 1, 2004, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) ELIMINATION OF OPT-OUT.—The amendments made by section 5(b) shall take effect on October 1, 2006, and shall apply to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(c) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part B or E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by a provision of this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act (or, in the case of the amendments made by section 5(b), the 1st day of the 1st calendar quarter beginning after the first such regular session that begins after the effective date of such section). If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

GENERAL LEAVE

Mr. HERGER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

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

There was no objection.

Mr. HERGER. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4504, the Safe and Timely Interstate Placement of Foster Children Act of 2004. I am pleased to be a cosponsor of this bipartisan legislation sponsored by the distinguished majority leader from Texas (Mr. DELAY). I thank him for introducing this important legislation and for his dedication and efforts to ensure foster and adopted children are better protected.

Madam Speaker, since November 2003, the subcommittee that I chair has conducted numerous hearings examining the Nation's child protection system. We have heard testimony from more than 45 witnesses who all agree on one important point, our current system fails to protect children and, therefore, needs improvement. The legislation before us today is an important first step in our effort to ensure children are not needlessly lingering in foster care. This legislation would encourage States to expedite the safe placement of foster and adoptive children into homes across State lines. Currently, these placements take an average of 1 year longer than placements within a single State, delaying permanency with loving families for thousands of children.

H.R. 4504 would establish deadlines for completing home studies that assess whether the home is appropriate for a child. The legislation also authorizes up to $10 million in each of fiscal years 2005 through 2008 for incentive payments to the States for home studies completed in a timely manner. In addition, the bill includes provisions to better ensure safety for children and foster and adoptive homes and to give foster parents and relative caregivers a right to be heard and notice of any court proceedings held concerning a child in their care.

I thank my colleagues, Republicans and Democrats, for their support of our efforts to move this bill. I urge all my colleagues to join me in voting for this legislation so that we can ensure children are placed with loving families in a timely and safe way.

Madam Speaker, I reserve the balance of my time.

□ 1600

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, when a child in foster care is waiting for a loving home, they should not have to wait an extra year to be placed in that home solely because it exists in another State.

Unfortunately, that is exactly what happens in many cases today. The interstate placement of foster children is too often delayed by bureaucratic red tape, the lack of communication, differing standards among States, insufficient resources, and sometimes just plain indifference. The truth is that when one is dealing with an out-of-state placement, a particular State does not give it the same attention it does to a placement within its own State. I therefore support this legislation to encourage States to expedite the appropriate placement of children across State lines.

The bill before us calls upon States to update a compact that dictates the process for interstate placement, and it requires States to expeditiously conduct home studies for children coming from other States.

Concluding these home studies, which evaluate whether prospective foster or adoptive parents can provide a safe and caring home for a child, has been one of the primary barriers to placing children across State lines.

The legislation attempts to focus States' attention on this problem by requiring the completion of home studies within 60 days and by offering financial bonuses for every study that is completed within 30 days.

I want to congratulate and thank the distinguished gentleman from Texas (Mr. DELAY), majority leader, for bringing this legislation forward and for working with both sides of the aisle to try to perfect this bill and to make it one that we hope can be enacted this year.

As a result of those discussions, some important changes have been made, and let me just point them out. First, the revised legislation now exempts the training of the foster and adoptive parents from both the 60- and 30-day home study timetables. Many States help prepare prospective adoptive and foster parents, and sometimes this training can take up to 3 months. We want to encourage such efforts; and, therefore, the new bill does not count training against a home study requirement and bonus.

Second, we recognize that factors beyond a State's control, such as waiting for an FBI background check or medical records, can sometimes prolong the home study process. The revised bill therefore gives States an additional 15 days, for a total of 75 days, to complete the home study in such circumstances.

And, finally, the new bill increases the bonuses for home studies completed within 30 days to $1,500 and clarifies that the $10 million a year will be authorized for these bonuses for the next 4 years. So the States can really plan on these new roles.

I should point out that one controversial provision remains in the bill that is not directly related to the goal of expediting interstate placements. The bill would eliminate the ability of States to determine their own standards for placing children with relatives of adoptive parents who have committed criminal offenses in the past. Mr. Speaker, my own State already complies with Federal standards in this area; and, therefore, I am not opposed to that provision in the bill. However, I understand that New York, California, and seven other States want the flexibility to make placement decisions on past offenses that may have happened many years ago. Those nine States now opt out of the Federal standards, an option that would be eliminated by this legislation. However, the revised bill does delay the effect of this change for 2 years, giving the States more time to modify those procedures.

Mr. Speaker, we have 500,000 children in foster care of which over 100,000 are ready for adoption. We need to remove barriers between these children and loving homes, and this bill takes a modest, but meaningful, step in that direction.

In closing, once again let me compliment the majority leader for allowing this Congress to focus on the issues of foster children. We have been able to do that in a bipartisan manner, and we have made some very constructive changes that have helped our most vulnerable children, and I congratulate him on this legislation.

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

Mr. HERGER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. DELAY), majority leader, the author of the bill.

Mr. DELAY. Mr. Speaker, I want to thank the gentleman for yielding me this time, and I want to also thank the gentleman from California (Chairman HERGER) and the distinguished gentleman from Maryland (Mr. CARDIN), ranking member, for their leadership on this legislation and in this area. They have worked tirelessly to understand the plight of abused and neglected children in this country, and we greatly appreciate the hard work that they have been doing.

I would also like to especially thank the staff from the Committee on Ways and Means, Matt Weidinger and Christine Devere, for their help on this bill. Nick Gwyn, from the minority staff, also contributed to this effort. The Congressional Research Service, Emilie Stolzfus and Karen Spar, provided technical advice on this bill that was greatly appreciated. In addition, I also want to thank Barbara Clark and Susan Orr with the Department of Health and Human Services for their work on this bill. But I especially want to thank Cassie Bevan on my staff. Dr. Bevan really shepherded this bill, and she has shown the love that exhibited in this bill is the exact kind of love that she has for children that are abused and neglected, the most innocent that are treated so badly by the adults that should love them and raise them. Dr. Bevan has done exemplary work in this area with this bill and in many other areas. And we are grateful to her.

Mr. Speaker, I am proud to have authored this bill and recommend it to my colleagues today. This legislation would streamline the system of which abused and neglected children in America are placed in foster and adoptive homes across State lines and brings hope to thousands of children every year who otherwise would spend their precious days in uncertainty and fear.

For the first time, it will set Federal deadlines for children's interstate placement to ensure both safety and timeliness by establishing Federal requirements.

Today in the United States an abused or neglected child who must be placed in a foster home outside their home State, often with a family member in another State, waits on average 1 full year longer to be placed than a child placed in-state. There is simply no justification for this inefficiency in this day and age. These kids need our help. Yes, prospective families must be found and screened. Background checks must be conducted, and the well-being of the child must always, always be the driving interest.

But an extra year just because a second government bureaucracy gets involved? An extra year of waiting for a permanent, forever family?

Not anymore, Mr. Speaker. Under this bill before us, once a child is deemed in need of an out-of-state placement, the State has 60 days to find the child a foster home or an adoptive home and 14 days to approve that home. And on top of that, it creates a financial incentive of $1,500 for States that complete their home study in 30 days.

These abused and neglected children should not be treated like second-class citizens or lower priorities just because they have to move out of their home State to be loved. To ensure these children's safety, this bill will also set Federal requirements for the criminal background checks States must conduct to screen prospective foster parents. It will end the ability of States to ''opt out'' of Federal criminal background requirements to prevent children from ever being placed into the home of anyone who has had a felony conviction involving violence or children.

It also provides 2 years for all States to get into compliance with Federal law so that by October, 2006, every placement in the country will be done with the same commitment to safety and timeliness.

Let us just be real clear about what we are talking about here. These children have not known the kind of lives

they were meant to lead. They have been abused and neglected by the very people who are supposed to love them the most. They have been beaten, malnourished, terrorized, and in many cases sexually abused. Things have gotten so bad in their lives that the State has been forced to step in to offer the child protection.

A family has volunteered to create a loving home for this child, and yet because of bureaucratic inefficiency and out-of-touch policies, these children are left to suffer alone with their fear and their bruises for another lost year of their young lives. Unacceptable. Unacceptable.

This bill will get these children out of their personal hells and into the arms of a loving family quickly and safely. Sixty days is more than enough to make necessary background checks and to ensure the quality of the prospective foster or adoptive parents, as evidenced by the widespread support for this legislation among groups dedicated to the protection of abused and neglected children like the National Foster Parent Association, the National Association of Psychiatric Health Systems, the Consortium for Children, the National Council for Adoption, and the National Council of Juvenile and Family Court Judges.

The people closest to the movement to reform the foster care system in America support this bill, Mr. Speaker. Current law allows children in need of an out-of-state placement to wait an extra year to find a family and does not ensure that ultimate placement is safe.

Current law is a cruel and callous insult to these children and the responsibility of the Nation to care for them. Current law, Mr. Speaker, must change. And if it does not and Congress adjourns without acting and an abused and neglected child dies in a State that has opted out of the Federal system, our failure to act will be the reason.

So I urge my colleagues not to let things reach that point. Act now in the interest of abused and neglected children who are today just hoping for a chance to hope. Give them that chance, Mr. Speaker, and support this legislation.

Mr. CARDIN. Mr. Speaker I yield 4 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, I want to thank the gentleman from California (Mr. HERGER) for bringing this legislation to the floor today.

Often this close to an election, we waste a lot of time on nonsense aimed to affect the election. But today's bill is really important because it aims to improve the chances of foster children to find permanent homes more quickly. This bill provides incentives to States that quickly place out-of-state children into permanent homes. But it also penalizes States that place children too slowly.

I am concerned that there may be situations where the delays in placement are caused by Federal agencies, not by State mismanagement; and I would like to ask the gentleman from California to engage me in a brief colloquy.

Since the bill calls for a government study to look at the reasons for delays in conducting background checks on prospective adoptive and foster parents, is it the gentleman from California's intention to work with me and my colleagues to address any barriers that the study finds especially at the Federal level?

Mr. HERGER. Mr. Speaker, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from California.

Mr. HERGER. Mr. Speaker, I thank the gentleman from Washington for his support of this important legislation.

And as he has mentioned, the legislation requests that GAO study the reasons for delays in conducting background checks, and I am very interested in what the GAO has to say on these issues given the importance of completing home studies in a timely manner so children may quickly, but safely, be placed into permanent homes. I hope we can continue to work together to explore these issues, building on what the GAO reports to us.

I thank the gentleman for his interest in this important issue and for his support of the legislation before us.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman for his response. We look forward to working with him.

Mr. HERGER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP), a member of the Committee on Ways and Means and the Human Resources Subcommittee.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me this time, and I also want to thank the distinguished gentleman from Texas (Mr. DELAY), majority leader, for his long record of leadership on foster care issues as well as on this particular legislation today.

This time of year I often get asked: What am I proud to have accomplished as a Member of Congress? And I am sure many of my colleagues get the same question. For me it is an easy question to answer. It is our work on adoption issues and moving children in foster care into safe, permanent, loving homes.

Together we have accomplished a lot for abandoned children, and today we can do even more. It is odd to think that after years of work on this issue, bringing regularity to international adoptions, providing greater incentives to adopt older and special needs children, helping new parents with the enormous financial cost to giving a young child a new lease on life, that something as simple as a State boundary line is delaying kids from finding true happiness and the unconditional love of a mother and father.

H.R. 4504, the Safe and Timely Interstate Placement Act of 2004, is a bipartisan piece of legislation that will expedite the safe placement of foster and adoptive children into permanent homes across State lines. Currently, these placements take more than 1 year longer than placements within a State's borders. We should not, and cannot, allow that to continue.

This legislation takes a commonsense approach to helping our Nation's foster children. It sets reasonable deadlines for completing and responding to interstate home studies and provides financial incentives for meeting those deadlines.

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It also ensures children are protected by requiring all States to follow Federal criminal background check procedures for perspective foster and adoptive parents.

This is good policy. It will help children find the family they deserve. I urge my colleagues to vote ''yes'' on H.R. 4504.

Mr. CARDIN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise today to speak on behalf of the 30,000 youth in the Los Angeles County foster care system. The goal for our foster care system is to find a permanent, loving family for each child and to ensure their well-being.

The focus of this bill is interstate placement, an excellent way to place children with relatives. This bill will help to achieve this goal. But my concern is this: after 2 years, H.R. 4504 would eliminate an opt-out provision for FBI background checks for all States.

The California County Welfare Directors Association concurs that this provision presents a problem for my home State of California, which already performs more rigorous background checks than required by the Interstate Compact on the Placement of Children. The 9/11 Commission has told us the FBI is already having difficulty performing background checks for homeland security needs. States cannot rely on the overburdened FBI to accelerate interstate placements of children. Our foster care children would have to compete with criminals and terrorists for time.

Foster care youth need to be placed in safe, loving homes. I would ask, Mr. Speaker, to give the Congress the opportunity to revisit this mandatory background check provision before the 2-year reprieve is over so that States like California can continue with their more rigorous background checks. I will work with the author to maybe have a provision that would do that.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. CARDOZA), one of the cosponsor of this legislation.

Mr. CARDOZA. Mr. Speaker, I rise in support of H.R. 4504 sponsored by the House majority leader, the gentleman from Texas (Mr. DELAY). As Members

from opposing sides of the political spectrum, I praise the gentleman from Texas (Mr. DELAY), and I could not be more proud to be here today in support of a common goal, moving our Nation's most precious children into safe and permanent homes.

As an adoptive parent myself, I have seen firsthand the glaring problems our foster care system is currently facing. At any given time in the United States, there are roughly 500,000 children in foster care, moving from placement to placement, often living out of a suitcase, in hopes that one day a loving family will welcome them into their home.

H.R. 4504, the Safe and Timely Placement of Foster Children Act, addresses one specific, yet extremely important, aspect of the system, interstate adoptions. Often an impediment to a foster child's placement in a permanent home happens when a child from one State is being adopted by a family in another State. The State where the family resides must complete a home study in order to verify that the placement is safe, secure, and ready for the new child. Often these types of home studies are a low priority for the State where the adoptive family resides and can lead to delays of months and even years in the adoption process.

This legislation we are considering today would establish a 60-day deadline for completing an interstate home study. If a State completes the home study within 30 days, this bill would authorize a $1,500 incentive payment for the completed home study to be used for adoption-related expenses.

The children that this bill seeks to help are needy, neglected children without a voice who desperately want to have a home, something all of us take for granted. They want to go to the same school with the same friends for more than a few months at a time. They want someone to tuck them in at night and help them with their homework. They want to stop living out of a black plastic garbage bag that doubles as a suitcase. They want a real home, and they want to be loved.

Over the years I have met with numerous kids from all over the country who are in various stages of foster care. I have heard great stories where children were reunited with their biological parents or are placed in loving, caring adoptive homes, like my own children are. But I have also heard other stories that have just made me sick to my stomach.

One young boy I met at a school for foster children in my district told me the story of his life that seemed quite fitting for this debate today. He had been placed in foster care at an early age and had been moved in and out of seven different homes up and down the State of California. As you can imagine, he grew jaded and resentful from the harsh life he was forced to live.

Finally he, was placed with a family that saw through his rough exterior and who wanted to adopt him. This young boy was convinced that he had finally found a real home with devoted parents. Soon after he was placed in this foster family, however, the father was transferred to North Carolina and the family was forced to move. Unfortunately, they could not get the paperwork processed between California and North Carolina in order to facilitate the adoption, so this young boy was left behind and is now residing in a group home.

It is our job as Members of Congress to be a voice for these children and make sure their dreams are realized. We owe it to them to streamline the adoptive process and make Federal law work for positive outcomes. If that means requiring States to get their act together, then so much the better.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Speaker, I rise today in strong support of H.R. 4504, the Safe and Timely Interstate Placement Act of 2004. I congratulate the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) as well for bringing this very important piece of legislation to the floor of the House in what might be one of our last weeks in session here. I also want to congratulate the majority leader for the passion he has brought to this issue as well.

We have had many discussions about the plight of those children that do not have a safety net under them, particularly foster children, and foster children that could be eligible for adoption as well.

I began my career after law school as an assistant district attorney, and I was assigned to juvenile court. In those days in Alabama we were to assist the welfare department with issues of removal of children. I learned more than I ever wish I had to learn about children that were in foster care, vulnerable children, abused children, physically abused, sexually abused, and often both as well.

What I found out the hard way, though, is that the system does not protect those children. The bureaucracies work against what we can do to place and protect those children. I got actively involved with the Foster Parents Association down there in north Alabama, and their frustrations with the bureaucracy were many.

This piece of legislation today accomplishes just about everything that we need to accomplish. It deals with the placement of children across State lines, and the bureaucracies have worked against that. My colleagues have pointed out how much longer it takes to place those children.

This legislation as well speaks to States that have opted out of Federal requirements. There should be criminal background checks. There should be restrictions on who is eligible to adopt children. Most States are not doing those background checks, and consequently most of those States are not protecting children the way they should. So this makes this uniform.

Another important issue that is covered in this legislation is it authorizes up to $10 million through fiscal year 2008 for incentive payments to the States for $1,500 for each interstate home study completed within 30 days. It wants to force the States to do those home studies quicker.

Mr. Speaker, this is a good piece of legislation, it should not be controversial, and our Members should support it.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I would just urge my colleagues to support this very important bill, and I compliment the manner in which it was handled in this body, improving the legislation.

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

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from Maryland (Mr. CARDIN), and all of the gentlemen and gentlewomen we have worked with on this bipartisan legislation. The legislation we are considering today is an important step that will ensure timely and safe homes for children.

It also has the support of the Bush administration, which today issued a statement of administration policy. This statement says the following: ''The administration supports House passage of H.R. 4504. This bill would help speed up the interstate adoption process so that children could be placed in permanent, loving homes more quickly by authorizing the Department of Health and Human Services to make incentive grants to States that complete timely interstate home studies.

''The administration is particularly pleased that the House bill includes a provision that eliminates the ability of States to opt out of requirements to conduct criminal background checks on foster and adoptive parents.''

Mr. Speaker, I thank the administration for their support, and I urge all my colleagues to join us in support of this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to support the "Orderly and Timely Interstate Placement of Foster Children Act of 2004." This act amends the Social Security Act to require each State to have procedures for orderly and timely placement of children, in foster care or for adoption.

In addition, this bill directs the Secretary of Health and Human Services to make incentive grants to States that complete timely interstate home studies. It also revises requirements for checking of child abuse registries to eliminate an opt-out provision.

Because of this act, we will allow access to the Federal parent locator service to courts in foster care or adoptive placement cases. It also provides for consideration of out-of-state placements in permanency hearings, case plans, and case reviews.

As chair of the Congressional Children's Caucus, I have dedicated a significant portion

of my congressional services to this issue of children. Children entering foster care are often in poor health. Compared with children from the same socioeconomic background, they have much higher rates of serious emotional and behavioral problems, chronic physical disabilities, birth defects, developmental delays, and poor school achievement according to Child Welfare Statistical Fact Book.

In my state of Texas we have a Child Population of 5,629,200. There are 17,103 in state care; 6,002, or 30.5 percent, are African American children. African American children, who made up less than 16 percent of all children under age 18, accounted for 38 percent of foster children in 2001, a total of 204,973.

White children, who made up 62 percent of American children, accounted for 37 percent of foster children. Hispanic children, who made up 18 percent of U.S. children, accounted for 17 percent of foster children.

Alcohol and drug abuse are factors in the placement of more than 75 percent of the children who are entering foster care. Children who lose their parents to AIDS are another group in need of foster care. In addition, increasing numbers of children who are HIV infected are in foster care.

An estimated 80,000 healthy children will be orphaned by AIDS in the next few years, with approximately one-third of that number expected to enter the child welfare system. Some conservative estimates are that about 30 percent of the children in care have marked or severe emotional problems.

According to a GAO study, 58 percent of young children in foster care had serious health problems; 62 percent had been subject to prenatal drug exposure, placing them at significant risk for numerous health problems.

Children in foster care are three to six times more likely than children not in care to have emotional, behavioral and developmental problems including conduct disorders, depression, difficulties in school, and impaired social relationships.

The health care children receive while in foster care is often compromised by insufficient funding, poor planning, lack of access, prolonged waits for community-based medical and mental health services, and lack of coordination of services as well as poor communication among health and child welfare professionals.

The Child Welfare League of America (CWLA) worked with the American Academy of Pediatrics (AAP) to develop standards for the health of foster children. However, many child welfare agencies lack specific policies for children's physical and mental health services and state Medicaid systems rarely cover all of the services these children require.

We need a more comprehensive, inclusive health care system to protect our Nation's foster children. To begin with, all children entering foster care should have an initial physical examination before or soon after placement. This examination should focus on identifying acute and chronic conditions requiring expedient treatment, so the condition does not worsen or become unmanageable. It is better for the child, for the foster parent, and for state Medicaid programs to urge an early diagnosis and treatment.

All children in foster care should receive comprehensive mental health and developmental evaluations, either before placement or soon after. Although they live with a family, the child in foster care requires physical, developmental, and mental health status monitoring more frequently than children living in stable homes.

Finally, child welfare agencies and health care providers should develop and implement systems to ensure the efficient transfer of physical and mental health information among professionals who treat children in foster care. The ability to communicate about medical histories and previous problems will make diagnosis and treatment easier and more affordable, and also provide the child with a more complete medical background.

We in Congress can see that more is done to hold social services accountable for maintaining the health and well being of these children. We can work to have more funds efficiently spent on the federal level to help these children. These are our most precious resource of the future, let us come together to work to protect it.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 4504. There are currently approximately 540,000 children in foster care in our country. In my home state of Illinois, 5 percent of our children, approximately 28,460 children are in foster care. The number of kids in foster care has doubled from 1987 to 2004. Nearly half of today's population of foster kids are under the age of ten.

I commend the gentleman from Texas, Mr. DELAY for this legislation. The idea of providing an opportunity for children who could not experience family life, to give them the opportunity to have the well-being, the nurturing of a family rather than being institutionalized or as a ward of the State is of tremendous value. I simply want to add my voice in support of it.

Mr. HERGER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 4504, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.''.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS RECOGNIZING CONTRIBUTIONS OF SEVEN *COLUMBIA* ASTRONAUTS

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 57) expressing the sense of the Congress in recognition of the contributions of the seven *Columbia* astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center, as amended.

The Clerk read as follows:

H.J. RES. 57

Whereas the crew of the space shuttle Columbia was dedicated to scientific research and stimulating the interest of American children in space flight and science;

Whereas the Columbia crew carried out science projects of American schoolchildren;

Whereas the members of that crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Columbia crew and their families is needed;

Whereas an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center and museum to offer children and teachers activities and information derived from American space research;

Whereas the former manufacturing site of the space shuttles (including the Columbia and the Challenger) in the city of Downey, California, is a fitting site for such a tribute;

Whereas residents of Downey are proud of their role in building the space shuttle fleet and in furthering the Nation's space program; and

Whereas city officials have been working with NASA representatives to develop the center in Downey: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that—

(1) the space science learning center in Downey, California, should be designated as the Columbia Memorial Space Science Learning Center as a living memorial to the seven Columbia astronauts who died serving their country in the name of science and research; and

(2) the Federal Government, along with public and private organizations and persons, should continue to cooperate in the establishment of such a center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 57.

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

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the beginning of time, a thirst for knowledge has been the greatest of motivations for discovery and exploration. Our passionate pursuit of the unknown has resulted in opening new frontiers and tremendous technological and other opportunities that benefit humankind.

There are no better examples of this spirit than the courageous crew of the Space Shuttle *Columbia*. They made the ultimate sacrifice, we say paid the ultimate sacrifice, so we could exceed our limitations in exploring the heavens. This resolution is a fitting tribute to the *Columbia* crew, who dedicated their lives to scientific research and space exploration.

The fact that on their fateful mission they conducted experiments designed

by school children demonstrates the value that the *Columbia* crew placed on young people. They believed in the participation of young people and the involvement of young people in America's space experience.

H.J. Res. 57 will continue this exalted tradition by inspiring future generations of American children to pursue opportunities in science and engineering and by providing them a facility with a history that is tied directly to the Space Shuttle program.

I visited the Downey facility, which will become, when this resolution passes, this space learning center, as a young reporter in the 1970s. At that time, I remember that I was ushered into this aerospace facility. It was a large building, and I was ushered in there to cover my story, and I was ushered right to the first mock-up of the Space Shuttle. It was in this Downey facility where the space shuttles were put together and designed. Certainly seeing that first mock-up, before there ever was a Space Shuttle, inspired me as a young reporter; and I am certain it will inspire young people as well.

As far as my inspiration, I went on later on after my journalism career to be a speech writer for Ronald Reagan.

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It was my honor to work with President Reagan on several of his remarks dealing with the return of the first shuttles that were put into orbit and into space. So that bit of inspiration that the shuttle mock-up had on me paid off with dividends for the President of the United States and for the people of the United States.

I would think that the young people who go through this center will also, with their inspiration, serve our country and the cause of humankind well into the future; and this, of course, is a wonderful gift that we can give them that is tied to this history of the shuttle.

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

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my friend, the gentleman from California (Mr. ROHRABACHER), in support of H.J. Res. 57 which recognizes, through a sense of Congress, the contribution of the seven *Columbia* astronauts by supporting the establishment of a Columbia Memorial Science Learning Center in Downey, California.

The *Columbia* shuttle accident was a great tragedy in American history. These courageous astronauts were dedicated to scientific research and stimulated the interest of American children in space flight and science. The crew members gave their lives in trying to benefit the education of American children.

Accordingly, an appropriate tribute to their memory would be to expand educational opportunities in science by the establishment of a center and museum to provide children and teachers with activities and information derived from American space science and research.

A fitting site for such a memorial is the former manufacturing site of the space shuttles, including the *Columbia* and *Challenger*, in the city of Downey, California. City officials have worked diligently with the NASA officials to develop this center. As a result, it is both appropriate and important for Congress to endorse this effort.

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

Mr. ROHRABACHER. Mr. Speaker, I yield myself 30 seconds.

I would like to pay a special tribute at this time to the gentlewoman from California (Ms. ROYBAL-ALLARD) for the hard work that she put in on this effort. She has been working with local government in that area, as well as the rest of us, to try to make sure that this facility would be put to good use for the benefit of our country and for the benefit of young people.

So as we move forward with this legislation, we need to make sure that we thank the gentlewoman from California (Ms. ROYBAL-ALLARD) for her hard work on the project.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT), an esteemed member of our committee, and a Ph.D. whose guidance and thoughtful reflection have helped many of us on the Committee on Science on very complicated issues.

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, recognizing the contribution and sacrifice of our brave astronauts is certainly reason enough to support this resolution, but there may be a justification which is equally important.

For a number of years now, decreasing numbers of our young people have aspired to careers in science, math, and engineering. This puts us at a competitive disadvantage with the rest of the world. Indeed, many of our companies in this country must solicit overseas for workers in these technical areas because we simply are not turning out enough in this country.

For the short term, this is a threat to our economic superiority. We will not continue to be the world's premier economic power if we do not turn out scientists, mathematicians, and engineers in adequate numbers. For the longer term, it is a threat to our national security. Our military prowess is now the envy of the world. That cannot continue to be so for the future if we do not turn out well-trained scientists, mathematicians, and engineers in large enough numbers.

Hopefully, as young people come to this learning center, they will be inspired once again to pursue careers in science, math, and engineering. This will be good for them. It will certainly be good for our country.

Mr. GORDON. Mr. Speaker, I yield 4 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I cannot thank this bipartisan effort enough for honoring our friends and neighbors from Houston, Texas, who died in the *Columbia* Seven Tragedy; and to also thank the distinguished gentlewoman from California (Ms. ROYBAL-ALLARD) for her leadership and her vision on this issue. I look forward to hearing her remarks as she captures for us the importance of what this space science center will represent, a living testimony to the bravery of the seven *Columbia* astronauts who died serving their country in the name of furthering scientific research.

The establishment of this center will provide a venue that will inspire those who may be our future astronauts, scientists, and engineers and will help people of all ages enhance their knowledge of science and to value technology in their daily lives.

We were certainly excited about the successful flight yesterday of SpaceShipOne, the world's first privately funded, manned spacecraft. I know that the gentleman from California (Mr. ROHRABACHER) and myself, who sit on the Subcommittee on Space and Aeronautics, and although I may be championing human space flight in a very loud tone, coming from NASA Johnson in Houston, we are all very excited about the potential of commercial space flight and the opportunities that it will bring about.

This great center, educational learning center, will hopefully train the astronauts of tomorrow and certainly be part of eliminating the fear and encouraging the excitement that space exploration brings about.

Let me say to my colleagues that America is not America without its commitment to space exploration. I am reminded of the leadership John F. Kennedy gave and the sparkle in the eyes of those who were able to hear and listen to his words and watch him speak. I believe President Kennedy said it well in 1962 in my hometown of Houston when declaring his commitment to putting a man on the Moon by the end of the decade. Well, Mr. Speaker, we have had men and women who have made their journey into space since that time.

He said, ''This generation does not intend to founder in the backwash of the coming age of space. We mean to be a part of it. We mean to lead it. For the eyes of the world now to look into space, to the Moon, and to the planets beyond; and we avow that we shall not see it governed by the hostile flag of conquest, but by a banner of freedom and peace. We have vowed that we shall not see space filled with weapons of mass destruction, but with instruments of knowledge and understanding.''

With that, I also say that I believe it is important for the Committee on Science and, particularly, the Subcommittee on Space and Aeronautics

to take up the challenge that has been given to us by the naming of this great center, to ask the hard questions about safety. A number of my colleagues have written a letter to ask for a full hearing on the questions of safety of human space flight and, as well, to address the question of safety with respect to the International Space Station.

I also would ask my colleagues to help me additionally honor the *Columbia* Seven by joining and supporting the *Columbia* Seven receiving the Congressional Gold Medal with over 320 sponsors of this House, along with sponsors of the United States Senate, the other body, as I am not allowed to mention the other body. Let us honor them, for they were brave, and let us pay tribute to this great resolution, H.J. Res. 57, that the gentlewoman from California (Ms. ROYBAL-ALLARD) has so ably presented before us, and pay tribute to her for her leadership and as well thank her for bringing honor to the *Columbia* Seven.

Let us join again in honoring them by supporting the Congressional Gold Medal for the *Columbia* Seven, because that brings additional tribute to their families, and let us again support the exploration of space by those learning to understand space and those still wishing to go into space.

Mr. Speaker, I am here today to support H.J. Res. 57 designating the space science learning center in Downey, California as the "Columbia Memorial Space Science Learing Center" as a living memorial to the seven *Columbia* astronauts who died serving their country in the name of furthering scientific research. The establishment of this center will provide a venue that will inspire those who may be our future astronauts, scientists, and engineers and will help people of all ages enhance their knowledge of science and to value technology in their daily lives.

Yesterday's news about the successful flight of SpaceShipOne the world's first privately funded manned spacecraft—its second flight in less than a week—is proof of the continued excitement for space travel and the science that supports it. Few were able to witness yesterday's flight. This new center will help to bring those experiences to the public.

The naming of this center will help us to remember the sacrifices that the *Columbia* astronauts have made to their country and in the furtherance of science. The seven astronauts whose lives were lost aboard the space shuttle *Columbia* were truly extraordinary people. To the world those astronauts were valiant heroes; to those of us from Houston, they were also friends, neighbors, and family. They were integral members of the community, and they paid the ultimate price to further a mission that benefited all of humanity.

The courageous astronauts aboard the *Columbia* were individuals of the highest caliber, always striving for excellence, and exemplifying the most noble of human traits. They were skilled professionals, scientists, clinicians, adventurers, and family men and women. The crew represented the diversity of our Nation—black and white, men and women, immigrant and native-born. The crew even included a comrade from Israel, the embodiment of the international goals of peace and cooperation.

I believe President Kennedy said it well in 1962 in my hometown of Houston, when declaring his commitment to putting a man on the moon by the end of that decade. He said,

"This generation does not intend to founder in the backwash of the coming age of space. We mean to be a part of it—we mean to lead it. For the eyes of the world now look into space, to the moon and to the planets beyond, and we have vowed that we shall not see it governed by a hostile flag of conquest, but by a banner of freedom and peace. We have vowed that we shall not see space filled with weapons of mass destruction, but with instruments of knowledge and understanding."

I believe that President Kennedy would have been proud to see the fantastic progress of the program that he so inspired that day. Today, NASA provides insights into the origins, destiny, and wonder of the universe and is a source of dreams for young and old alike.

Beyond the technological benefits of space exploration, NASA's courageous pioneers also inspired the youth of America in a way that only manned space missions can. The majesty and adventure of seeing people traversing the heavens sparks the natural curiosity and imagination of young people. It nudges some toward science and math and pushes all to strive for excellence. Seeing a team, like that on the *Columbia* inspires young engineers, scientists, and all sorts of people who want to be part of something truly great and noble. That inspiration may well be the *Columbia* crew's most enduring impact on humanity. Centers like the "Columbia Memorial Space Science Learning Center"—itself located on an historic NASA site—are important in bringing that inspiration to the public.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as we move forward in this discussion, I believe that the words of the gentleman from Maryland (Mr. BARTLETT) and, of course, the words of the gentlewoman from Texas (Ms. JACKSON-LEE) should be taken very seriously when we are talking about young people and the molding or melding here of our space program along with the education of America's youth.

This has been a great experience for me in that it may be my last time as chairman of the Subcommittee on Space and Aeronautics to address this House on an issue. I have been the chairman for 8 years, and let me just note that I have thoroughly enjoyed being the chairman of this subcommittee because by its nature, America's space program brings our people together, and by its nature then, we have had a tremendous bipartisan, positive relationship in our subcommittee and on our committee staff.

One of the projects I have worked on which I have yet to complete in terms of my ultimate goal, but one of the projects I have worked on and on which I have had some tremendous support from both sides of the aisle, is providing young people who want to study math and science and engineering full scholarships that would be set up by the various departments and agencies of our government, NASA in particular, in order to mold the education of young people so that they can fulfill the needs of these various departments for skilled people in the future, while at the same time providing engineering and scientific education for our young people.

These scholarships, by the way, would not be free; they would educate young people, and once the young person is done with the education, having received a full scholarship, for every 1 year of scholarship, they would be expected to work for that department or agency of government for 2 years. It would be a payback, one might say, although the student would then be receiving full pay like any other employee of that department.

Mr. Speaker, I will be working on that project for the next few years, and I would hope for this same spirit of bipartisanship that we hear today, and as we congratulate the gentlewoman from California (Ms. ROYBAL-ALLARD) for her hard work today on behalf of children and the space program, that we would work together to try to implement the scholarship program that I have just outlined. And I will be making it a priority in my next few years in Congress, although I will not be the chairman of the Subcommittee on Space and Aeronautics anymore.

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

Mr. GORDON. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. ROYBAL-ALLARD), the original sponsor of this important bill.

Ms. ROYBAL-ALLARD. Mr. Speaker, I am proud to rise in support of House Joint Resolution 57, which I introduced last year with my distinguished colleague, the chairman of the Subcommittee on Space and Aeronautics, the gentleman from California (Mr. ROHRABACHER).

I thank the gentleman from California (Mr. ROHRABACHER) for his support and his assistance in bringing this resolution to the floor. This resolution, I am proud to say, has the unanimous support of the California delegation in the House of Representatives, and I thank all of them for their sponsorship.

Mr. Speaker, House Joint Resolution 57 names the proposed learning center in the city of Downey the Columbia Memorial Space Science Learning Center. This naming is in honor of the seven brave astronauts who lost their lives on the Space Shuttle *Columbia* on February 1, 2003.

The city of Downey, which I am proud to say is in my 34th Congressional District, was home to the former Rockwell International plant where key components of NASA's space shuttle fleet, including the *Columbia*, were built. The history of America's space program runs deep through the fabric of Downey where virtually everyone in the city boasts of having a relative or a friend who played a key role in engineering or building our Nation's space shuttle fleet.

When NASA closed the shuttle manufacturing facility, it was Downey's great pride in its space heritage that motivated city leaders to incorporate a space science learning center as a cornerstone of its economic redevelopment plan. Former Representative Steve Horn's early support was key to this effort, and his ability to secure Federal resources for the center was instrumental in moving the project forward.

I am pleased to continue his work and to be able to have finalized the transfer of the former NASA site from the State of California to the city of Downey. When completed in 2006, the learning center will memorialize the *Columbia* astronauts, the rich space history of Downey, and all who helped realize our Nation's dream of space exploration.

To effectively teach current and future generations about this proud history, Downey has contracted an historian familiar with aeronautic development and its special context in southern California.

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His or her work will be the principle source for history-oriented exhibits and programs at the center. The Columbia Learning Center, however, is also about the future of space exploration. Downey's leaders recognize that the city's legacy goes beyond astronauts and aeronautical engineers or the shuttles, Apollo modules, and moon capsules that were built in Downey during the last half century.

They know the future lies in our youth. The Columbia Memorial Space Science Learning Center will therefore design programs and exhibits to excite our youth about the sciences and to inspire them to become our country's future scientists, engineers and astronauts who will explore the universe and make discoveries we can now only imagine.

I cannot think of a more fitting memorial than to name the Downey Space Science Learning Center in honor of the brave men and women of the *Columbia* crew who gave their lives in the pursuits of space science and space exploration.

I am proud to sponsor this legislation with the gentleman from California (Mr. ROHRABACHER) and the entire California delegation, and I urge its adoption.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we conclude this important bill, I would just like to say that I served as the ranking member of the Subcommittee on Space and Aeronautics with the gentleman from California (Mr. ROHRABACHER) for most of those 8 years.

In my 20 years in Congress, I have not served with a more fair, decent or knowledgeable chairman as the gentleman. And I will also say that, within his discretion, which was most of the time, he could not have been more bipartisan in trying to find solutions to our joint concerns. So I very sincerely say that the Subcommittee on Space and Aeronautics, the Committee on Science, our country is a better place for the gentleman's service to the Committee on Science.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was just listening to the final remarks of the gentleman when I was standing here. I was not recognizing that we are towards the end of the session and that we are coming to an end of a tenure. I might have been one of those that put in a petition for the extension of the chairman's tenure. But I just want to join my ranking member and congratulate the gentleman from California (Mr. ROHRABACHER) for many of the bipartisan efforts and journeys that we have taken.

We have a mutual love of space exploration. We have teased each other about unmanned and manned in space, and I will change that to womaned and unwomaned. But in any event, I, too, want to add my appreciation. I will continue to work with him as he works with me in supporting not only this great resolution but also the Congressional Gold Medal that honors our *Columbia* seven as well.

I thank the distinguished ranking member for yielding to me, and I thank him for his support on the Congressional Gold Medal work and the legislation before us.

Mr. GORDON. Mr. Speaker, I would say that all the men and women on our subcommittee on my side of the aisle would echo those remarks.

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

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a fitting time for me to sort of step down because we had this tremendous success yesterday on Spaceship One. And one of my major goals as chairman of this committee was to make sure that commercial space remained an option so that in the future that we did not look at space as just an endeavor of the Federal Government, but instead looked at it as possibly offering services through the commercial sector and profit-making ventures as well as space exploration and some of the other types of things in space science that can only be done by the government itself or government working with private industry.

So this great achievement of having a commercially sponsored and designed and paid-for spaceship that went into space and was capable of carrying passengers, this was a great success. And I want to commend everyone who was involved in the spaceship program.

By the way, that was done in response to a prize, the X Prize, which offered a $10 million prize to anyone who could accomplish that mission. And I will be introducing legislation within the next few days to try to systemize the prize concept encouraging space endeavors in developing new technologies.

Finally, Mr. Speaker, let me finish with this one note about space. We were talking a lot today about this particular legislation which is aimed at providing a link between children's learning and our future and the space program and the astronauts and the space shuttle, and these are links that certainly exist. But what we hear most often when we are talking about space is, why is space worth it? Why are we so involved? Why is there a space subcommittee of the Committee on Science? Why are we spending so much time, effort and money? Is it really worth the investment?

What I would like to leave in this debate and on the record is why our investment in space has been so valuable to the people of the United States and, yes, the people of the world.

I remember when I was a young boy, that I crawled into a pit underneath a little house in North Dakota because it had been reported that tornados were expected that night. And we had to spend the entire night listening to some little radio there in a hole in the ground underneath the floor boards of this small farm. And, in fact, today, we have the small farmers and people throughout the country and people in cities that know when tornados are coming and have adequate warnings.

There has been much progress made in this area, especially in the area of tornados and hurricanes.

I sat through a hurricane when I was younger. The people of Florida, one can only wonder how many more billions of dollars would have been lost in damage and lives would have been lost if it would not have been for the satellite technology that permitted us to track the hurricanes that slammed into Florida just recently. We had ample warning to people to prepare. We now have a GPS system that will tell us where we are located on the planet which has tremendous commercial applications but also tremendous applications to make sure that, in the future, our landing systems for our airplanes will be specifically guided to protect the passengers who travel throughout the country.

I remember, before there was space imaging, and as I say, my family came from a farming background where people farmed totally different. Today's space imaging helps us improve the yield and protects the crops that we plant so it helps keep the cost of food down. In each one of these instances, we are talking about billions upon billions of dollars that are saved by the people of the United States and the world by an investment in space.

We are talking about communication satellites. When I was young, I remember calling up my grandparents in North Dakota, and it was a long distance call. We called very rarely,

maybe two or three times a year, because the call was so expensive, and we had to go through so many operators, and it was so disruptive. It was $5 at that time which was a lot of money. We rarely called. But, today, young people can call up their grandparents on cell phones from anywhere, aided of course and made possible by the investment that we made in space-based assets. Those telephone calls now cost a matter of cents. We have increased the communications between generations. People call their loved ones.

Our investment in space has increased the level of love in our society and saved us billions of dollars. And, of course, we have, the biggest issue when I first came to this Congress was what? The biggest issue was, should we regulate the cable industry, cable TV? And, of course, they said, there will never be any competition with cable TV because they have to put in the cables.

Well, I, for one, have Direct TV at my house, and that competition has kept the costs of cable down, and it has just proliferated information and entertainment, made our lives happier throughout the country and saved, again, billions of dollars because of that competition in keeping down the cost of entertainment and information.

Of course, our military assets in space have saved the lives of our soldiers and done a tremendous job of keeping the peace for the world, and that is in our hands.

This is what we have accomplished with our investment. A meager investment in space has given us tens of billions, if not hundreds of billions, of dollars worth of value back to us. And that value can be used in education. That value has been used to make our society better because of what we have achieved from our space program.

We are not at the end of the space program. We have a future to look forward to that is bright. We have a President that has offered us the guidelines for the future and the strategy for the future. We can see a possibility of generating power from space, from solar-based power in the future. We can see another colony, perhaps a colony on the moon, with its natural resources there, or on an asteroid. There are so many things that we can accomplish.

The future depends on our children which is what this amendment today is all about, and it depends on the willingness of this generation to make an investment and to keep that investment in technology and in space-related assets.

It has been my honor to serve as chairman of the Subcommittee on Space and Aeronautics, to work with people from both sides of the aisle who are committed to this type of future for America and the world. May we always lead the world in conquering new frontiers. May we always lead the world into the unknown and make sure that America leads the world into a better tomorrow.

Mr. ROHRABACHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the joint resolution, H.J. Res. 57, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

MILITARY PERSONNEL FINANCIAL SERVICES PROTECTION ACT

Mr. BAKER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5011) to prevent the sale of abusive insurance and investment products to military personnel, as amended.

The Clerk read as follows:

H.R. 5011

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Personnel Financial Services Protection Act''.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) Our military personnel perform great sacrifices in protecting our Nation in the War on Terror and promoting democracy abroad.

(2) Our brave men and women in uniform deserve to be offered first-rate financial products in order to provide for their families and to save and invest for retirement.

(3) Our military personnel are being offered high-cost securities and life insurance products by some financial services companies engaging in abusive and misleading sales practices.

(4) One securities product being offered to our service members, the contractual plan, has largely disappeared from the civilian market since the 1980s due to its excessive sales charges and the emergence of low-cost products. A 50-percent sales commission is typically assessed against the first year of contributions made under a contractual plan, even though the average commission on other securities products such as mutual funds is less than 6 percent on each sale.

(5) The excessive sales charge of the contractual plan makes it susceptible to abusive and misleading sales practices.

(6) Certain life insurance products being offered to our service members are being improperly marketed as investment products. These products provide very low death benefits for very high premiums that are front-loaded in the first few years, making them completely inappropriate for most military personnel.

(7) Regulation of these securities and life insurance products and their sale on military bases has been clearly inadequate and requires Congressional legislation to address.

SEC. 3. PROHIBITION ON FUTURE SALES OF PERIODIC PAYMENT PLANS.

(a) AMENDMENT.—Section 27 of the Investment Company Act of 1940 (15 U.S.C. 80a-27) is amended by adding at the end the following new subsection:

''(j) TERMINATION OF SALES.—

''(1) TERMINATION.—Effective 30 days after the date of enactment of the Military Personnel Financial Services Protection Act, it shall be unlawful, subject to subsection (i)—

''(A) for any registered investment company to issue any periodic payment plan certificate; or

''(B) for such company, or any depositor of or underwriter for any such company, or any other person, to sell such a certificate.

''(2) NO INVALIDATION OF EXISTING CERTIFICATES.—Paragraph (1) shall not be construed to alter, invalidate, or otherwise affect any rights or obligations, including rights of redemption, under any periodic payment plan certificate issued and sold before 30 days after such date of enactment.''.

(b) TECHNICAL AMENDMENT.—Section 27(i)(2)(B) of such Act is amended by striking ''section 26(e)'' each place it appears and inserting ''section 26(f)''.

(c) REPORT ON REFUNDS, SALES PRACTICES, AND REVENUES FROM PERIODIC PAYMENT PLANS.—Within 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report describing—

(1) any measures taken by a broker or dealer registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(b)) to voluntarily refund payments made by military service members on any periodic payment plan certificate, and the amounts of such refunds;

(2) after such consultation with the Secretary of Defense as the Commission considers appropriate, the sales practices of such brokers or dealers on military installations over the past 5 years and any legislative or regulatory recommendations to improve such practices; and

(3) the revenues generated by such brokers or dealers in the sales of periodic payment plan certificates over the past 5 years and what products such brokers or dealers market to replace the revenue generated from the sales of periodic payment plan certificates prohibited under subsection (a) of this section.

SEC. 4. METHOD OF MAINTAINING BROKER/DEALER REGISTRATION, DISCIPLINARY, AND OTHER DATA.

Subsection (i) of section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(i)) is amended to read as follows:

''(i) OBLIGATION TO MAINTAIN REGISTRATION, DISCIPLINARY AND OTHER DATA.—

''(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—A registered securities association shall—

''(A) establish and maintain a system for collecting and retaining registration information;

''(B) establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding—

''(i) registration information on its members and their associated persons; and

''(ii) registration information on the members and their associated persons of any registered national securities exchange that uses the system described in subparagraph (A) for the registration of its members and their associated persons; and

''(C) adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries in consultation with any registered national securities exchange providing information pursuant to subparagraph (B)(ii).

''(2) RECOVERY OF COSTS.—Such an association may charge persons making inquiries, other than individual investors, reasonable fees for responses to such inquiries.

''(3) PROCESS FOR DISPUTED INFORMATION.—Such an association shall adopt rules establishing an administrative process for disputing the accuracy of information provided in response to inquiries under this subsection in consultation with any registered national securities exchange providing information pursuant to paragraph (1)(B)(ii).

''(4) LIMITATION OF LIABILITY.—Such an association, or an exchange reporting information to such an association, shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

''(5) DEFINITION.—For purposes of this subsection, the term 'registration information' means the information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information.''.

SEC. 5. FILING DEPOSITORIES FOR INVESTMENT ADVISERS.

(a) AMENDMENT.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking ''Every investment'' and inserting the following:

''(a) IN GENERAL.—Every investment''; and

(2) by adding at the end the following:

''(b) FILING DEPOSITORIES.—The Commission may, by rule, require an investment adviser—

''(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

''(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

''(c) ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

''(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—The Commission shall require the entity designated by the Commission under subsection (b)(1) to establish and maintain a toll-free telephone listing, or a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or rule to be reported) involving investment advisers and persons associated with investment advisers.

''(2) RECOVERY OF COSTS.—An entity designated by the Commission under subsection (b)(1) may charge persons making inquiries, other than individual investors, reasonable fees for responses to inquiries made under paragraph (1).

''(3) LIMITATION ON LIABILITY.—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) Section 306 of the National Securities Markets Improvement Act of 1996 (15 U.S.C. 80b-10, note; P.L. 104–290; 110 Stat. 3439) is repealed.

SEC. 6. STATE INSURANCE JURISDICTION ON MILITARY INSTALLATIONS.

(a) CLARIFICATION OF JURISDICTION.—Any law, regulation, or order of a State with respect to regulating the business of insurance shall apply to insurance activities conducted on Federal land or facilities in the United States and abroad, including military installations, except to the extent that such law, regulation, or order—

(1) directly conflicts with any applicable Federal law, regulation, or authorized directive; or

(2) would not apply if such activity were conducted on State land.

(b) PRIMARY STATE JURISDICTION.—To the extent that multiple State laws would otherwise apply pursuant to subsection (a) to an insurance activity of an individual or entity on Federal land or facilities, the State having the primary duty to regulate such activity and whose laws shall apply to such activity in the case of a conflict shall be—

(1) the State within which the Federal land or facility is located; or

(2) if the Federal land or facility is located outside of the United States, the State in which—

(A) in the case of an individual engaged in the business of insurance, such individual has been issued a resident license; or

(B) in the case of an entity engaged in the business of insurance, such entity is domiciled.

SEC. 7. REQUIRED DEVELOPMENT OF MILITARY PERSONNEL PROTECTION STANDARDS REGARDING INSURANCE SALES.

(a) STATE STANDARDS.—The Congress intends that—

(1) the States collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation of the United States (including installations located outside of the United States); and

(2) each State identify its role in promoting the standards described in paragraph (1) in a uniform manner within 12 months after the date of the enactment of this Act.

(b) STATE REPORT.—It is the sense of the Congress that the NAIC should, after consultation with the Secretary of Defense and within 12 months after the date of the enactment of this Act, conduct a study to determine the extent to which the States have met the requirement of subsection (a) and report such study to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 8. REQUIRED DISCLOSURES REGARDING LIFE INSURANCE.

(a) REQUIREMENT.—Except as provided in subsection (d), no insurer or producer may sell or solicit, in person, any life insurance product to any member of the Armed Forces on a military installation of the United States unless a disclosure in accordance with this section is provided to such member before the sale of such insurance.

(b) DISCLOSURE.—A disclosure in accordance with this section is a written disclosure that—

(1) states that subsidized life insurance may be available to the member of the Armed Forces from the Federal Government;

(2) states that the United States Government has in no way sanctioned, recommended, or encouraged the sale of the product being offered;

(3) is made in plain and readily understandable language and in a type font at least as large as the font used for the majority of the policy; and

(4) with respect to a sale or solicitation on Federal land or facilities located outside of the United States by an individual or entity engaged in the business of insurance, except to the extent otherwise specifically provided by the laws of such State in reference to this Act, lists the address and phone number where consumer complaints are received by the State insurance commissioner for the State in which the individual has been issued a resident license or the entity is domiciled, as applicable.

(c) ENFORCEMENT.—If it is determined by a State or Federal agency, or in a final court proceeding, that any individual or entity has intentionally failed to provide a disclosure required by this section, such individual or entity shall be prohibited from further engaging in the business of insurance with respect to employees of the Federal Government on Federal land, except—

(1) with respect to existing policies; and

(2) to the extent required by the Federal Government pursuant to previous commitments.

(d) EXCEPTIONS.—

(1) FEDERAL AND STATE INSURANCE ACTIVITY.—This section shall not apply to insurance activities—

(A) specifically contracted by or through the Federal Government or any State government; or

(B) specifically exempted from the applicability of this Act by a Federal or State law, regulation, or order that specifically refers to this paragraph.

(2) UNIFORM STATE STANDARDS.—If a majority of the States have adopted, in materially identical form, a standard setting forth the disclosures required under this section that apply to insurance solicitations and sales to military personnel on military installations of the United States, after the expiration of the 2-year period beginning on such majority adoption, such standard shall apply in lieu of the requirements of this section to all insurance solicitations and sales to military personnel on military installations, with respect to such States, to the extent that such standards do not directly conflict with any applicable authorized Federal regulation or directive.

(3) MATERIALLY IDENTICAL FORM.—For purposes of this subsection, standards adopted by more than one State shall be considered to have materially identical form to the extent that such standards require or prohibit identical conduct with respect to the same activity, notwithstanding that the standards may differ with respect to conduct required or prohibited with respect to other activities.

SEC. 9. IMPROVING LIFE INSURANCE PRODUCT STANDARDS.

(a) IN GENERAL.—It is the sense of the Congress that the NAIC should, after consultation with the Secretary of Defense and within 12 months after the date of the enactment of this Act, conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on ways of improving the quality of and sale of life insurance products sold by insurers and producers on military installations of the United States, which may include limiting sales authority to companies and producers that are certified as meeting appropriate best practices procedures or creating standards for products specifically designed for members of the Armed Forces regardless of the sales location.

(b) CONDITIONAL GAO REPORT.—If the NAIC does not submit the report to the committees as described in subsection (a), the Comptroller General of the United States shall study any proposals that have been made to improve the quality and sale of life insurance products sold by insurers and producers on military installations of the United States and report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such

proposals within 6 months after the expiration of the period referred to in subsection (a).

SEC. 10. REQUIRED REPORTING OF DISCIPLINED INSURANCE AGENTS.

(a) REPORTING BY INSURERS.—After the expiration of the 2-year period beginning on the date of the enactment of this Act, no insurer may enter into or renew a contractual relationship with a producer that solicits or sells life insurance on military installations of the United States unless the insurer has implemented a system to report, to the State insurance commissioner of the State of the domicile of the insurer and the State of residence of the insurance producer, disciplinary actions taken against the producer with respect to the producer's sales or solicitation of insurance on a military installation of the United States, as follows:

(1) Any disciplinary action taken by any government entity that the insurer knows has been taken.

(2) Any significant disciplinary action taken by the insurer.

(b) REPORTING BY STATES.—It is the sense of the Congress that within 2 years after the date of the enactment of this Act, the States should collectively implement a system to—

(1) receive reports of disciplinary actions taken against insurance producers by insurers or government entities with respect to the producers' sale or solicitation of insurance on a military installation; and

(2) disseminate such information to all other States and to the Secretary of Defense.

SEC. 11. REPORTING BARRED PERSONS SELLING INSURANCE OR SECURITIES.

(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a list of the name, address, and other appropriate information of persons engaged in the business of securities or insurance that have been barred, banned, or otherwise limited in any manner that is not generally applicable to all such type of persons, from any or all military installations of the United States.

(b) NOTICE AND ACCESS.—The Secretary shall ensure that—

(1) the appropriate Federal and State agencies responsible for securities and insurance regulation are promptly notified upon the inclusion or removal of a person under such agencies' jurisdiction; and

(2) the list is kept current and easily accessible—

(A) for use by such agencies; and

(B) for purposes of enforcing or considering any such bar, ban, or limitation by the appropriate Federal personnel, including commanders of military installations.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall issue regulations in accordance with this subsection to provide for the establishment and maintenance of the list under this section, including appropriate due process considerations.

(2) TIMING.—

(A) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate Committees a copy of the regulations under this subsection that are proposed to be published for comment. The Secretary may not publish such regulations for comment in the Federal Register until the expiration of the 15-day period beginning upon such submission to the appropriate Committees.

(B) FINAL REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate Committees a copy of the regulations under this section to be published as final.

(C) EFFECTIVE DATE.—Such regulations shall become effective upon the expiration of the 30-day period beginning upon such submission to the appropriate Committees.

(3) DEFINITION.—For the purposes of this section, the term ''appropriate Committees'' means—

(A) the Committee on Financial Services and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

SEC. 11. SENSE OF CONGRESS.

It is the sense of the Congress that the Federal and State agencies responsible for insurance and securities regulation should provide advice to the appropriate Federal entities to consider—

(1) significantly increasing the life insurance coverage made available through the Federal Government to members of the Armed Forces;

(2) implementing appropriate procedures to encourage members of the Armed Forces to improve their financial literacy and obtain objective financial counseling before purchasing additional life insurance coverage or investments beyond those provided by the Federal Government; and

(3) improving the benefits and matching contributions provided under the Thrift Savings Plan to members of the Armed Forces.

SEC. 12. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ENTITY.—The term ''entity'' includes insurers.

(2) INDIVIDUAL.—The term ''individual'' includes insurance agents and producers.

(3) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(4) STATE INSURANCE COMMISSIONER.—The term ''State insurance commissioner'' means, with respect to a State, the officer, agency, or other entity of the State that has primary regulatory authority over the business of insurance and over any person engaged in the business of insurance, to the extent of such business activities, in such State.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BAKER) and the gentleman from Illinois (Mr. EMANUEL) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

GENERAL LEAVE

Mr. BAKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5011.

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

There was no objection.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the members of the House Committee on Financial Services and I assume many Members of the Congress were shocked to learn of practices on military installations of this Nation wherein the practice of bringing in retired military officers to meet with young enlisted men and women to represent to them that financial investment opportunities were being made available which, in fact, were not financial investments but financial misfortune.

Young men and women, often headed to a theater of war, thinking they were buying life insurance for their dependents and their spouses, would return finding that the premiums paid yielded very little benefit at high cost. Mutual fund investments, which often required half of the first year's investment, went into the pockets of the broker.

It would be years in some cases before these young men or women would find a financial return on what they thought would be an investment for their family's future.

Upon learning of these revelations, the committee began its work and made serious inquiries into the manner in which these actions were permitted. The bill before the House today, the result of work by the gentleman from Georgia (Mr. BURNS), the gentleman from Illinois (Mr. EMANUEL) and other Members, takes an important stride forward in that it would preclude the sale of contractual mutual fund products period on military installations and, secondly, would require the establishment of rules and regulations by State insurance commissioners to ensure that types of activities previously engaged in here would heretofore be prohibited.

This measure is one with which I believe both sides of the aisle can strongly agree. I find it highly appropriate that, as young men and women are preparing to stand in defense of this country, that this Congress at least stand in defense of their financial security.

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

□ 1700

Mr. EMANUEL. Mr. Speaker, I yield myself such time as I may consume.

(Mr. EMANUEL asked and was given permission to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, I rise in strong support of this legislation.

I would like to thank the gentleman from Louisiana (Chairman BAKER) and the gentleman from Ohio (Chairman OXLEY) and the gentleman from Massachusetts (Ranking Member FRANK) and the gentleman from Pennsylvania (Ranking Member KANJORSKI) for helping give our enlistees one more line of defense against unfair financial practices and also their families.

I requested this hearing on July 20. We held a subcommittee hearing quickly thereafter in early September, September 9, after a series of articles in the New York Times on the sales practices of certain financial services and industries and companies on our military bases throughout the country. The New York Times had cited numerous cases of abusive practices, including one instance in which a Coast Guard officer went $16,000 into debt after he invested $600 of his $3,600 salary in a contractual mutual fund.

Many young recruits and enlistees are of modest financial means. In fact, they are forced to draw on other government programs such as food stamps to make ends meet and to feed their families, and the last thing they need

are unnecessary types of financial products with high fees and little financial benefit for them. There is simply no reason for some of these investment vehicles or life insurance vehicles to be sold to them.

Take the contractual mutual fund which was in the 1960s discouraged in the civilian market to the point that it is almost nonexistent. The SEC had recommended to Congress then to ban it, but it basically ran out of its purpose in the early 1980s. Today, I think in our hearing we found out that, in fact, contractual mutual funds up to north of 95 percent of them exist only among the military and enlistees. They do not exist today, for practical purposes, inside the civilian population.

The question we have to ask ourselves, if contractual mutual funds are not good for the civilian market, in fact, the SEC discourages them, why would we allow them to be sold and marketed to our troops? If we want to allow access to the military bases, fine, for other types of financial needs for the financial security of our enlistees, but our young men and women are not to be seen as ATM fee-generating machines for the financial services industry.

This legislation requires new disclosure for life insurance products so it is crystal clear to our men and women what is being sold, instead of the information being buried in the fine print. Now companies will have to give plain English documents telling them of subsidized life insurance that is readily available through the Armed Forces and that the government does not recommend this product.

In fact, the Armed Forces sells a product for $16.25 a month, $250,000 in coverage, one of the things we had recommended; and I am hoping later on maybe we can deal with it. The gentleman from Texas (Mr. EDWARDS) and I recommended raising the cap in the military or on the government program from $250,000 to 500,000. We should deal with that need, and if enlistees want more life insurance they should be able to get it; but in this case some of the companies were selling life insurance products for about $1,500 for about $15,000 worth of value, where the government offers and 96 percent of the enlistees are enrolled, a product for $16.25 a month.

Also, during the hearing, we learned one other issue which I promised to take up next year and I said it in the full committee, that, in fact, in 2000 Congress permitted members of the Armed Forces to enroll in the government Thrift Savings Program. Yet Members of Congress get a match, but members of the armed services do not get a match for their investment in their savings program. Although this was not the right vehicle to deal with it, and we have a sense of the Congress that we should in this legislation, I intend next year to introduce a piece of legislation to authorize and then appropriate the dollars so enlistees get what Members of Congress get or Members of Congress get what enlistees get, but we are not going to have the disparity between the two.

Finally, this legislation includes important provisions encouraging State and Federal authorities to implement financial literacy programs for enlisted personnel. Our troops need the basic financial knowledge necessary to make good decisions, and they deserve these commonsense measures to protect them from financial distress.

We in this Chamber can make a choice today. We can restore the values that have kept our military strong and that we hold for the future of our troops and their families. This bill could be another small measure to help make the lives of our troops a little easier, and it sends a message reminding them that we are deeply grateful for their service and commitment to defending our Nation.

I encourage my colleagues to support this legislation.

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

Mr. BAKER. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. BURNS) who introduced legislation early in this Congress and encouraged the committee to act in a timely manner.

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me time.

I would like to thank the gentleman from Ohio (Chairman OXLEY) of the Committee on Financial Services and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman. I would like to thank my distinguished colleagues and the gentleman from Illinois (Mr. EMANUEL) for their support and input.

I rise in strong support of H.R. 5011, the Military Personnel Financial Services Protection Act.

Mr. Speaker, I introduced H.R. 5011 to halt the fiscal abuse of our servicemen and -women by those in the life insurance and securities industry that use devious sales practices to collect exorbitant fees and sales commissions.

Further, H.R. 5011 is targeted at those who use our Federal military installations, both at home and abroad, as a shield to evade individual State insurance regulations and restrictions.

The 12th district of Georgia that I represent is home to many active duty, Reserve, and retired military personnel. I have Fort Gordon in Augusta; Fort Stewart in Savannah. I have the Naval Supply Course School in Athens. Georgia is represented by all branches of the military service: Army, Air Force, Coast Guard, Marines and Navy.

In recent months, my office had become aware of servicemen and -women residing in the 12th district and throughout the State of Georgia that have suffered financially as a result of dubious financial products and questionable insurance policies. Unfortunately, these questionable sales practices are not limited to the State of Georgia and have been found to be pervasive on our military installations within the United States and abroad.

Investigations into these practices are currently being conducted by the Department of Defense, the NASD, the Securities and Exchange Commission, and the State insurance commission regulators, including Georgia's commissioner of insurance, John Oxendine.

Let me provide my colleagues with a few unfortunate examples of what has happened just in Georgia.

Young recruits have been approached in group settings during boot camp and asked to fill out savings plan allotment forms that in truth turn out to be primarily payments for insurance premiums and sales commissions.

Junior enlisted personnel have been encouraged by senior enlisted personnel to participate in savings plans that are, in fact, insurance products.

Junior enlisted personnel and their superiors have received free meals at local restaurants and other gratuities as an enticement to participate in these illicit plans.

Junior officers have been provided free drinks and food at base officers clubs and then asked to participate in flawed mutual fund contracts that give the appearance of being endorsed by their chain of command.

Retired military personnel now employed by financial insurance firms have used their base and command access to inappropriately influence junior officers and enlisted personnel to participate in these questionable products.

Flawed mutual fund contractual plans that are disparaged by the financial and industry experts have been marketed virtually exclusively to our military personnel.

Outrageous as these may seem, sales agents banned from military installations in Georgia subsequently moved to Germany and continued their illicit sales practices to soldiers living abroad.

I will not, and I cannot, sit by and watch innocent servicemembers suffer from unscrupulous sales practices on our military installations. I say shame on those companies that allowed these practices to take advantage of our military personnel and shame on us for not acting sooner.

My staff has been in discussions with the Committee on Financial Services, the government regulators, corporate representatives, and independent financial experts to ensure that H.R. 5011 effectively addresses the illicit sales practice being encouraged by our armed services personnel and to prevent any unintended consequences.

H.R. 5011 does not target systematic investment plans or legitimate investment in insurance products, only those flawed mutual fund contractual plans and insurance contracts that require the payments of exorbitant fees and high front-loaded sales commissions.

As a bipartisan measure, H.R. 5011 has received overwhelming support from the various financial, insurance, and military organizations and support

groups and has been reported out of Committee on Financial Services by a unanimous vote, bipartisan vote of 68 to zero.

Working together we can and we must act in a prudent manner to protect our servicemen and -women from harm caused by dubious financial products and questionable financial and insurance sales practices and policies.

I urge my colleagues to recognize the importance of acting to protect the financial interests of our armed services personnel and vote ''yes'' on this worthy resolution.

Mr. EMANUEL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK), the ranking member, who helped us on this legislation in passing it.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Illinois for showing great leadership on this. He was, to my knowledge, the first Member of this body to decide that we ought to take some action. He spoke to me early when this was first called to our attention, and he has been very diligent and very thoughtful and others, the gentleman from Texas, gentleman from New York, have joined in.

So I am glad we are at this point where we are about to pass very good consumer protection legislation, and this is a species of that legislation; and it shows what our role ought to be, namely, to start from the assumption that the market will work and we will leave things to the market, but to be ready to step in when the market fails and it does not include the kind of protections that it ought to include.

This is a very thoughtful piece of legislation, worked out in a bipartisan way, under the leadership of the gentleman from Louisiana (Mr. BAKER), the chairman of the subcommittee; the gentleman from Pennsylvania (Mr. KANJORSKI), the ranking member. I am delighted to join in supporting it.

Mr. BAKER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I thank the chairman for the time.

I am a strong supporter of this legislation that we are considering today, and I want to thank Mr. BURNS for his leadership on this issue and also the gentleman from Ohio (Chairman OXLEY) for his work moving this bill to the floor in a very timely and expedient fashion.

As a member of both the Committee on Armed Services and Committee on Financial Services, the issue at hand today is one that I care very deeply about. Today, by passing H.R. 5011, we will be protecting our men and women in uniform.

I have the honor of representing three military installations and have seen firsthand the dedication and service of our servicemembers. These military men and women deserve the protection found in H.R. 5011. Congress has a responsibility to provide our servicemembers access to financial services while protecting them from dishonest agents.

I was honored to work with the gentleman from Georgia (Mr. BURNS) in the committee to include language that will improve installation commanders' knowledge of previous predatory offenses. This will allow our commanders to keep previous offenders from soliciting on the bases.

I urge and encourage my colleagues to support this legislation.

Mr. EMANUEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ISRAEL), a distinguished member of both the Committee on Armed Services and the Committee on Financial Services, who introduced earlier in the year, life insurance for American troops after an unfortunate death of a constituent in the Iraqi theater.

Mr. ISRAEL. Mr. Speaker, I thank my friend from Illinois for the time.

I want to thank our chairman of our subcommittee, chairman of our committee and our ranking member for their bipartisan cooperation, and I also want to thank the gentleman from Texas (Mr. EDWARDS) for keeping this Congress focused on this vitally important issue.

I am particularly pleased with a provision of this bill that the gentleman from Kansas just discussed which he and I worked together on on a bipartisan basis requiring the DOD to maintain a list of all sales agents who have been barred from any base and to report such barring to the relevant State or Federal regulator. That database will ensure that agents barred from one base cannot simply move to another base to prey on personnel in different areas.

Simultaneously, the reporting requirement will enable the regulator immediately to begin taking investigative action and appropriate disciplinary action. These measures will protect our troops from those who are looking to exploit them wherever, whenever they can.

This is an important step, but we still have a long way to go. We still have a long way to go in protecting the protectors and meeting the financial needs of those who are fighting for our security.

In that vein, Mr. Speaker, I want to share with my colleagues the story of one of the families that I represent, a constituent that I used to represent, Raheen Tyson Heighter, 19-years-old, grew up in Bay Shore, New York, enlisted in the Army. When he enlisted, he was told he had to have life insurance. He said I cannot afford life insurance; they do not pay me enough to pay my premiums. They said, you have got to have life insurance. He said, well, I am 19 years old. He thought, like most 19-year-olds, I am invincible. He said, give me the cheapest policy you can.

He was killed in action in Iraq. His mother received a call from a casualty officer saying we regret to inform you of the death of your son, and all he had was a $10,000 life insurance policy because that is all Raheen Tyson Heighter could afford to pay.

No family in America who receives the horrible news of the death of their son or daughter in war should also have to suffer the indignity of being financially abused.

We have a bipartisan bill in this Congress, sponsored by the gentleman from New York (Mr. KING) and myself, called the Raheen Tyson Heighter Life Insurance for America's Troops Act. If we really want to protect the protectors, we ought to be providing them with the base amount of $250,000, and we ought to pick up the tab for their premium. If they can afford to give up their lives for us, we ought to be able to afford to pay their life insurance.

□ 1715

This is a good bill. This is an important bill. It is a good step, but we still have a ways to go in protecting our protectors.

I thank the committee for their bipartisan cooperation in moving this forward, but we still need to go a little further.

Mr. BAKER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I rise today in strong support of H.R. 5011, the Military Personnel Financial Services Protection Act. The military has a major presence in central Texas, and I have a great interest in protecting the financial well-being of our soldiers and their families.

I find it absolutely deplorable that our men and women in uniform are being actively coerced into spending any part of their already modest incomes on unnecessary, overpriced insurance policies and predatory investment plans. Companies that solicit these plans knowingly exploit the financial naivety of our newest soldiers through unscrupulous practices, which have been described here today and recently detailed in a New York Times series.

At a time when soldiers should be focusing their efforts and limited resources on providing for their families, it is unconscionable we allow our soldiers to be swindled into contractual plans that have not been offered to civilian markets since the 1980s, or to be sold expensive insurance policies that provide inadequate coverage.

Therefore, I ask my colleagues to protect those who so selflessly stand on the wall and protect us and to vote in favor of H.R. 5011.

Mr. EMANUEL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS), who represents Fort Hood, home to 40,000 soldiers, most of whom have served in Iraq, including the First Cavalry Division and the Fourth Infantry Division, which captured Saddam Hussein.

Mr. EDWARDS. Mr. Speaker, this is the way Congress should work. The

New York Times made it obvious that there were new standards that needed to be set to protect our troops who were risking their lives for our country. The gentleman from Georgia (Mr. BURNS), the gentleman from Illinois (Mr. EMANUEL), and Members on a bipartisan basis came together quickly to address that problem. And I want to commend all of those involved in the leadership for bringing this bill to the floor.

As the gentleman from Illinois (Mr. EMANUEL) said, for 14 years I have had the privilege of representing Fort Hood, the only two-division installation in the U.S. Army. During times of war and peace, I have seen the incredible personal sacrifices made by our military troops and their families on behalf of our Nation.

We can never repay the debt of gratitude we owe the young 20-year-old soldier I met at Walter Reed Hospital recently, who came back from Iraq with an amputated leg. We cannot repay the young widow I met at Fort Hood recently with a small baby in her arms, a baby who will never gaze into the eyes of its father.

As a small downpayment on that debt of gratitude, we in Congress must continue our efforts to improve pay, health care, housing, and education for military families and their children.

I also salute this bill for helping protect our troops against misrepresentations in the sale of mutual funds and life insurance policies. While our military forces should have the right to invest in their family's futures, it is clear that higher standards are needed to protect our servicemen and -women from unscrupulous practices.

This bill is a step in the right direction by prohibiting unfair policies, by requiring greater regulation of insurance sales on military installations, such as Fort Hood in my district, and by encouraging the Department of Defense and State regulatory agencies to set new and higher standards for the sale of these policies.

I hope this is a first step, not the last step, in protecting our troops. After passing this legislation, I hope Congress will move forward with legislation I and the gentleman from Illinois (Mr. EMANUEL) and others have authored to require the Department of Defense to offer up to $500,000 in life insurance to our troops, rather than the present cap of $250,000.

In today's world, $250,000 simply is not enough life insurance for many young families with children to feed, clothe, educate, and to send to college. By increasing life insurance at affordable rates up to $500,000, the Department of Defense and Congress can prevent many of the abuses outlined so well by the recent New York Times articles. Until Congress takes that action, this bill is a very positive, solid step forward toward protecting military families who are sacrificing so much to protect American families.

Mr. Speaker, I again thank those who, working on a bipartisan basis, brought this legislation so quickly to the floor of the House; and I would hope that the other body would act accordingly.

Mr. EMANUEL. Mr. Speaker, I yield myself such time as I may consume to close.

I want to also thank the gentleman from Louisiana (Mr. BAKER), our chairman, for the hearing and the way he conducted the hearing on September 9, for the leadership of the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) showed when we did finally pass the legislation, which passed unanimously in our committee.

This was a quick response to what is clearly needed by everybody's standard. We should not allow our enlistees to be targeted for the type of financial services and products that are merely for the gain of the industry representatives and not for the protection of our enlistees. This was the right thing to do.

Hopefully, the Senate can move quickly, although there are other things we would like to move, as noted by the gentleman from Texas (Mr. EDWARDS), such as our legislation raising the cap on the life insurance from $250,000 to $500,000. And there are things not in this bill that we still need to do. But this is the right step; it is the right action.

Mr. Speaker, the bipartisanship that was shown here I would hope would extend to other areas. And again I want to thank the chairman of the subcommittee for the hearing and also seeing through this legislation to today's conclusion.

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

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

I simply wish to acknowledge the good work of the gentleman from Illinois (Mr. EMANUEL) and his colleagues on this matter and to express appreciation for the bipartisan manner in which it was considered, passed and, I think this afternoon, passed on the floor of this House.

Clearly, when we identify a problem of such pressing urgency to the young men and women of our national defense, it is highly appropriate this Congress should be timely and responsive in meeting their need. I think H.R. 5011 achieves that goal, and I am appreciative of the opportunity to have worked with my colleague and echo the observations of the gentleman from Illinois. I hope this bipartisan approach continues with issues yet to come.

Mr. OXLEY. Mr. Speaker, I rise in support of H.R. 5011, the Military Personnel Financial Services Protection Act. This legislation, introduced by my good friend MAX BURNS of Georgia, will protect the men and women who put their lives on the line each day for our Nation.

Mr. Speaker, since the awful day of September 11, 2001, our country has been at war with radical Islamic terrorists. In the prosecution of this war, our armed services have performed heroically. Indeed, many have made the ultimate sacrifice for the cause of freedom.

Sadly, at the same time, there are a few bad actors in the securities and insurance industries determined to take financial advantage of our service men and women. These unscrupulous companies and salesmen gain access to military installations and use aggressive, misleading, and often illegal sales tactics, to sell high-cost products of dubious value that are unsuitable for any investor.

The Pentagon has issued several directives intended to curtail these abuses. But for a whole host of reasons, it is clear that the abuses will not stop unless Congress passes this legislation.

H.R. 5011 prohibits bad products and bad sales practices, clarifies regulatory jurisdiction on U.S. installations here and abroad, adds strong consumer protections and disclosures, and ensures proper reporting systems between our military and the financial regulators to ensure that bad actors cannot continue their predatory behavior. It also makes the process of selecting a broker more transparent for all investors, by providing online access to background information—including disciplinary actions—on broker-dealers. These are tough measures that will greatly enhance consumer protections for military services members, and make financial transactions on base more transparent and investor-friendly.

Our Committee reported this bill to protect our service men and women on a unanimous 68–0 vote. This overwhelming bipartisan consensus is the result of strong leadership by Mr. BURNS, the author of this legislation; by Mr. EMANUEL for highlighting this issue for the Committee and working with us on a bipartisan basis; the Chairman of the Subcommittee on Capital Markets, Mr. BAKER, who led our investigation into the abusive practices and bad products; Mr. JIM RYUN and Mr. ISRAEL who worked closely together on the reporting requirements of this bill; and last but not least, Congresswoman GINNY BROWN-WAITE for ensuring appropriate SEC oversight of broker-dealer sales practices on military installations. Their hard work and leadership is well-reflected in this legislation.

Mr. Speaker, I am also including for the record an exchange of letters between myself and the Chairman of the Committee on Armed Services regarding their jurisdictional interest on this legislation. I want to thank the distinguished Chairman for his assistance in moving this legislation forward in an expeditious fashion.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 4, 2004.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building.

DEAR MR. CHAIRMAN: On September 29, 2004, the Committee on Financial Services reported H.R. 5011, a bill to prevent the sale of abusive insurance and investment products to military personnel. As you know, H.R. 5011, as ordered reported, contained provisions within the jurisdiction of the Committee on Armed Services.

Because of your willingness to consult with this Committee, and because of your desire to move this legislation expeditiously, I will waive consideration of the bill by the Committee on Armed Services. By agreeing to waive this consideration of the bill, the Committee does not waive its jurisdiction over H.R. 5011. In addition, should a conference be convened on this legislation, the Committee reserves its authority to seek

conferees on any provisions of the bill that are within its jurisdiction. I ask for your commitment to support any request for conferees by the Committee on H.R. 5011 or similar legislation.

I request that you include this letter and your response in the Congressional Record during your consideration of the legislation on the House floor. Thank you for your consideration of these matters.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, October 4, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HUNTER: Thank you for your recent letter regarding your committee's jurisdictional interest in H.R. 5011, the Military Personnel Financial Services Protection Act. I appreciate all of your efforts to expedite consideration of this important legislation.

I acknowledge your committee's jurisdictional interest in section 11 of this bill as ordered reported by the Committee on Financial Services and appreciate your cooperation in allowing speedy consideration of the legislation. I agree that your decision to forego further action on the bill will not prejudice the Committee on Armed Services with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for an appropriate number of conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of your letter and this response in Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

I urge all of my colleagues in the full House to support this bipartisan effort and vote "yes" on H.R. 5011.

Mrs. TAUSCHER. Mr. Speaker, I rise today in support of this bill, H.R. 5011, the Military Personnel Financial Services Protection Act. Every American—especially every American who suits up to protect our Nation—should rest assured that their family's future is provided for if the unthinkable happens. I support Representative BURNS's bill because basic life insurance should not be a worry on our fighting force's shoulders, it should be a trusted guarantee. It is utterly unconscionable for insurance agents to be peddling policies to our troops that provide poor coverage and charge exorbitant fees, such as these contractual plans. I recently returned from a trip to Iraq and I am pleased to know that the young soldiers I met will soon be protected from fraudulent or misleading sales practices with the passage of this bill.

Mr. BAKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 5011, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BAKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFIRMING AUTHORITY OF SECRETARY OF AGRICULTURE AND COMMODITY CREDIT CORPORATION TO ENTER INTO MEMORANDUMS OF UNDERSTANDING REGARDING COLLECTION OF APPROVED COMMODITY ASSESSMENTS FROM PROCEEDS OF MARKETING ASSISTANCE LOANS

Mr. HAYES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4620) to confirm the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans, as amended.

The Clerk read as follows:

H.R. 4620

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

SECTION 1. CONFIRMATION OF AUTHORITY OF SECRETARY OF AGRICULTURE TO COLLECT STATE COMMODITY ASSESSMENTS.

(a) COLLECTION FROM MARKETING ASSISTANCE LOANS.—The Secretary of Agriculture may collect commodity assessments from the proceeds of a marketing assistance loan for a producer if the assessment is required to be paid by the producer or the first purchaser of a commodity pursuant to a State law or pursuant to an authority administered by the Secretary. This collection authority does not extend to a State tax or other revenue collection activity by a State.

(b) COLLECTION PURSUANT TO AGREEMENT.—The collection of an assessment under subsection (a) shall be made as specified in an agreement between the Secretary of Agriculture and the State requesting the collection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. HAYES) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman from Washington (Mr. NETHERCUTT) for sponsoring H.R. 4620 and bringing this bill to the committee's attention. I also appreciate his extensive efforts in working to resolve this problem for producers in Washington State as well as producers nationwide.

For years, the U.S. Department of Agriculture has collected State commodity checkoff assessments from marketing loans to fund research and promotion. In recent years, however, when producers within a State have voted to increase assessments on themselves, USDA has found that it lacks the statutory authority to recognize modified memorandums of understanding with the State.

As amended in the Committee on Agriculture, H.R. 4620 provides USDA the authority to collect these assessments and allows USDA to recognize modified agreements with the States.

Again, I appreciate the work of the gentleman from Washington on this issue, and I urge support of the bill.

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

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 4620.

H.R. 4620 was introduced by our colleague, the gentleman from Washington State (Mr. NETHERCUTT). I have been contacted by the Texas Wheat Growers, the National Association of Wheat Growers, the Wheat Export Trade Education Committee and the USA Rice Federation in support of addressing an issue that has arisen in regard to the collection of assessments for State commodity research and education programs when the commodity in question goes under loan with the USDA.

I want to thank the gentleman from Washington and the Washington Wheat Growers for bringing this situation to our attention before it impacted more States or more commodities. I am pleased to have worked with the chairman, the gentleman from Virginia (Mr. GOODLATTE), to report out a bill that the Committee on Agriculture fine-tuned in conjunction with USDA and the wheat industry.

As a wheat farmer, I know the benefit our State wheat and other commodity promotion groups do on our behalf with checkoff funds, and I support this continued effort; and therefore, I am pleased to support this legislation.

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

Mr. HAYES. Mr. Speaker, I yield myself such time as I may require to conclude by thanking my colleague, the gentleman from Texas (Mr. STENHOLM) for his assistance today.

Mr. HASTINGS of Washington. Mr. Speaker, I support this legislation to clarify the authority of state commissions to collect commodity assessments on the proceeds of marketing assistance loans.

Agriculture is the prime driver of the economy in my Central Washington congressional district. Many growers in my district make use of marketing loans that allow them to use their crop as collateral.

Many growers also participate in check-off programs for collecting an assessment on a certain crop. These assessments are normally collected at the first point of sale. The USDA and the Commodity Credit Corporation have supported state commissions in the collection of grower-funded commodity assessments when, because of low commodity prices, the commodity is forfeited to the government. The

state assessments have been collected under a Memorandum of Understanding between the USDA and state commodity commissions.

Recently, wheat growers in Washington and California voted to increase their support of commodity activities through an assessment increase. USDA has claimed that it lacks the statutory authority to honor a Memorandum of Understanding if the assessment rate is changed. This decision has the potential to cause serious impact to state commissions and disadvantage to growers that depend on their work. The use of funds is very important during times of low prices and oversupply, when the need for expanding markets increases.

This legislation introduced by my friend and colleague from Washington, Mr. NETHERCUTT and myself will authorize the USDA to continue to collect state commodity assessments in the event of forfeiture of a commodity to the federal government.

I urge my colleagues to support this legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HAYES) that the House suspend the rules and pass the bill, H.R. 4620, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to confirm the authority of the Secretary of Agriculture to collect approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.''

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4620.

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

There was no objection.

PROVIDING FOR NATIONAL PLAN FOR CONTROL AND MANAGEMENT OF SUDDEN OAK DEATH

Mr. HAYES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4569) to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, and for other purposes.

The Clerk read as follows:

H.R. 4569

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

SECTION 1. NATIONAL PLAN FOR CONTROL AND MANAGEMENT OF SUDDEN OAK DEATH.

(a) DEVELOPMENT OF NATIONAL PLAN.—Subject to the availability of appropriated funds for this purpose, the Secretary of Agriculture, acting through the Animal Plant and Health Inspection Service, shall develop a national plan for the control and management of Sudden Oak Death, a forest disease caused by the fungus-like pathogen Phytophthora ramorum.

(b) PLAN ELEMENTS.—In developing the plan, the Secretary shall specifically address the following:

(1) Information derived by the Department of Agriculture from ongoing efforts to identify hosts of Phytophthora ramorum and survey the extent to which Sudden Oak Death exists in the United States.

(2) Past and current efforts to understand the risk posed by Phytophthora ramorum and the results of control and management efforts regarding Sudden Oak Death, including efforts related to research, control, quarantine, and hazardous fuel reduction.

(3) Such future efforts as the Secretary considers necessary to control and manage Sudden Oak Death, including cost estimates for the implementation of such efforts.

(c) CONSULTATION.—The Secretary shall develop the plan in consultation with other Federal agencies that have appropriate expertise regarding the control and management of Sudden Oak Death.

(d) IMPLEMENTATION OF PLAN.—The Secretary shall complete the plan and commence implementation as soon as practicable after the date on which funds are first appropriated pursuant to the authorization of appropriations in subsection (e) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. HAYES) and the gentleman from Iowa (Mr. BOSWELL) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I yield myself such time as I may consume.

Since Sudden Oak Death syndrome was first detected in California in 1995, the disease has killed tens of thousands of oaks and tanoaks in 12 coastal California counties and affected shrubs and trees in small areas of Curry County, Oregon, and King County, Washington. In addition, isolated cases of the European mating type of SOD have been found in Washington, Oregon, and British Columbia.

Sixty plant species are known to be hosts or associated hosts of the pathogen responsible. There are no chemical treatments currently available to eliminate the disease in nursery stock.

□ 1730

Following confirmation of a discovery of the SOD pathogen in March at Monrovia Nurseries in Los Angeles County, California, USDA's APHIS plant protection and quarantine staff have been working with other Federal and State authorities to address the situation. APHIS mobilized its rapid response teams, and the California Department of Food and Agriculture placed hold orders on all shipments of host plant materials from confirmed positive facilities. Likewise, the Forest Service is coordinating with APHIS, spending $1.3 million this fiscal year to monitor areas near confirmed infestations to see if the pathogen is spreading from nurseries to forests.

Despite the efforts of USDA and State agriculture departments, by the end of April, positive cases had been confirmed in nurseries from at least 10 States. As of September 29, 2004, the total number of confirmed positive locales from the trace forward, national and other survey finds was 160 in 21 States, including Alabama, three; Arkansas, one; Arizona, one; California, 53; Colorado, one; Florida, six; Georgia, 18; Louisiana, five; Maryland, two; North Carolina, nine; and so on.

I am concerned about the potentially devastating impact of SOD on eastern hardwood forests and support all efforts at improving planning and coordination of our control and management programs. The legislation introduced by the gentleman from Georgia (Mr. BURNS) and 19 other Members is an attempt to refocus efforts at controlling and managing outbreaks of SOD. In particular, the bill authorizes appropriations for development of a national strategy for sudden oak death syndrome.

I would urge all Members to support the legislation.

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

Mr. BOSWELL. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 4569, a bill to provide for the development of a national plan for control of sudden oak death, a disease that has threatened oak stands in California but is now potentially a threat to trees in other parts of the country. While we work to contain this disease, it is important that the necessary commerce in oak nursery stock be permitted to continue within reasonable bounds. This bill should help advance both of these important goals.

Our success in this matter is important to all Americans. Whether you are in the forest land business or just enjoy the shade of a majestic oak gracing your lawn, we all have an interest in this important issue. I want to commend my colleagues from Georgia (Mr. BURNS) and (Mr. SCOTT) in particular, for their work in bringing this legislation before us today. I encourage all Members to vote for the passage of this bill.

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

Mr. HAYES. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. BURNS) who has been very active in this matter from the beginning.

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me this time. I thank the chairman and the ranking member of the Committee on Agriculture for moving this rapidly through the committee and to the floor of the House.

Mr. Speaker, I rise today in support of H.R. 4569 in an effort to stop a nationwide tree epidemic before it further infects America's forest and horticultural industry. Mr. Speaker, my distinguished colleague from Georgia (Mr. SCOTT) and I introduced this legislation because we recognize the similarities of what could result if sudden oak death disease continues to spread across the Nation in a similar fashion to that of the Dutch elm disease which devastated American forests and cities in the 1930s.

The bill would expand the U.S. Department of Agriculture's endeavors to halt the spread of the oak-destroying fungus Phytophthora ramorum and its harmful effect on America's oaks. Phytophthora ramorum invades susceptible trees through the bark, killing portions of the tree, creating an ideal environment for insects and other fungi to invade. Although primarily a west coast disease today, the sudden oak death disease has infected nurseries all across the United States and has recently made its way to Georgia through the sale of plants in the nursery industry killing over 100,000 oaks in the process, putting businesses in danger of closing and millions of trees at risk.

Our Nation's oak woodlands, urban forests, agricultural forestry and horticultural industries are all in jeopardy. The sudden oak death disease now affecting several States across our country has everyone waiting for something to be done to address this potentially disastrous problem. Sudden oak death negatively affects ecosystem functions, increases fire and safety hazards, and reduces property values in developed areas.

Over 7 million people lived where the initial outbreak occurred in the urban/wildland interface of central and coastal California. Neighborhoods were transformed within months. Dead trees surrounded communities where green trees formerly thrived. Communities were overwhelmed as residential yards, parks, open space and recreation areas were irreparably altered and in need of costly removal of thousands of hazardous trees.

The U.S. ornamental industry is valued at over $13 billion in annual sales, the third largest crop value in America. Georgia produces over $601 million in sales annually, and in my district alone, the 12th District of Georgia, we have $66 million in ornamental horticulture sales. Our nursery and horticultural interstate trade, international export markets, lumber companies and gardeners all will suffer a traumatic loss if we do not take action to prevent the spread of the sudden oak death disease.

We have seen the early stages of the sudden oak death disease and its capability of spreading far and wide. If we fail to stop this threat to our oak trees, the similar type of disease that caused catastrophic damage among Dutch elms over decades ago, the Dutch elm disease, will seem pale by comparison. Mr. Speaker, H.R. 4569 is bipartisan legislation that takes the necessary steps to combat this threat. We need our Secretary of Agriculture to immediately develop a plan to manage this disease that is rapidly spreading across our Nation.

I urge my colleagues to vote ''yes'' to protect our 21st century forests and our horticulture industry from the kind of devastation that we experienced in the 1930s with Dutch elm disease.

Mr. BOSWELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I stand here because sudden oak death was first found in Marin County in my district in 1995. Since then, I have been working to control and contain this devastating disease, and I have been working with the gentleman from California (Mr. THOMPSON) as well because it is happening in our contiguous districts. It is good that we are here today to vote on this bipartisan bill, and it is something that I have been working on to get control over. But I am saddened that it has taken the spread of this disease to receive national interest.

Slowly but surely, as sudden oak death has spread through other communities, the Nation has come to understand the devastation that it causes and its need to be stopped. Sudden oak death is catching national attention as it has appeared for the first time in nurseries in southern California and nurseries in Oregon, and there is some serious concern that SOD has even spread to the southeastern part of the country. Nurseries in California are struggling with the quarantines that have been put in place on their plants in Canada and the State of Kentucky. In fact, quarantines of nurseries in Washington and Oregon are being considered at this very time.

But more tragic than that is what actually happens to the beautiful trees in an area that is affected by SOD and the resulting fire risks. It just brings tears to your eyes when you see these groups of trees disappearing.

Mr. Speaker, I ask that my colleagues join me in supporting this bill, H.R. 4569, to contain sudden oak death before it affects the entire country. Please do not wait until sudden oak death spreads to your community before you recognize the severity of this problem. I urge my colleagues to join all of us here today and vote for this important legislation.

Mr. THOMAS. Mr. Speaker, I rise today in strong support of H.R. 4569, which would require the Secretary of the United States Department of Agriculture to develop a plan to control and manage Sudden Oak Death (SOD). Sudden Oak Death is an issue of significant concern to my constituents who live in San Luis Obispo County, and I thank Mr. BURNS and Chairman GOODLATTE for working with me to develop this legislation.

Oaks are a significant part of California's culture, and San Luis Obispo County is famous for its beautiful oak trees, particularly those along U.S. Highway 101. In fact, ''El Paso de Robles,'' which is the name of one of the cities located in the northern portion of the County, is literally translated ''the pass of the oaks.'' It also should be noted that oak trees provide pleasant vistas that encourage tourism, which is an important component of the California and San Luis Obispo County economies.

Unfortunately, oak trees are susceptible to a disease known as Sudden Oak Death, which is caused by the fungus-like pathogen Phytophthora ramorum, and for which there is currently no known cure or treatment. Rather, the standard regulatory practice is to quarantine the infected woodland area to reduce the likelihood of its further dispersal. However, quarantine efforts are not always effective because the disease is difficult to contain. Thus, while San Luis Obispo County is not among the thirteen California counties that are subject to such quarantines, I am interested in efforts to contain and combat Sudden Oak Death in order to ensure that Sudden Oak Death does not become established in San Luis Obispo County's environment.

In order to most effectively and efficiently combat Sudden Oak Death, we need to have a plan, and that plan should be derived from a careful analysis of what we have learned from our past efforts. As that is exactly what Mr. Burns' legislation would facilitate, I encourage my colleagues to join me as I work to see it enacted into law.

Mr. DICKS. Mr. Speaker, I rise today in support of H.R. 4569, a bill to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum.

In 1993, a fungus-like organism was found in Germany and the Netherlands on nursery-grown rhododendrons and viburnums. The disease was found to cause leaf blight, stem canker, and tip dieback. About the same time, oak trees in the San Francisco Bay Area were dying from similar symptoms and the disease began to be known as ''sudden oak death.''

Since that time, P. Ramorum has been found along the southeastern coast of the United States, California, Oregon and my home state of Washington. As of September 29, 2004, the total number of confirmed positive sites is 160 in 21 States. This disease invades susceptible trees and shrubs, including Douglas fir, through the bark, killing portions of the tree. This creates an ideal environment for insects and other fungi to invade.

Federal regulations were published February 14, 2002, to control the movement of sudden oak death from twelve infested counties in California and an area under eradication in Oregon. Research on Sudden Oak Death is currently being conducted by the Agriculture Research Service, U.S. Forest Service, Universities and others to better identify hosts, methods of detection, and effective treatments. Currently, 64 plants are regulated. There are no chemical treatments currently available to eliminate the disease in nursery stock.

H.R. 4569 is critical to the eradication of P. Ramorum. This bill allows the United States Department of Agriculture to develop the plan in consultation with other Federal agencies that have appropriate expertise regarding the control and management of Sudden Oak Death. I urge passage of this important bill.

Mr. FARR. Mr. Speaker, I rise today as an original cosponsor in support of H.R. 4569, legislation to provide for the development of a national plan for the control and management of Sudden Oak Death.

Sudden Oak Death is a forest disease caused by the plant pathogen Phytophthora ramorum. This pathogen has caused widespread dieback in California and across the nation of tanoak, several oak species (including; coast live oak, California black oak, Shreve's oak, and canyon live oak) and a myriad of shrubs and nursery stock.

The disease has killed hundreds of thousands of trees in the coastal counties in northern California (two of which I represent) and southwestern Oregon. As a result of the dieback in California, USDA recently issued federal quarantine regulations on the movement of materials outside California. This action is in addition to the separate quarantines Canada and the States of California and Oregon imposed on themselves. Further, thirteen states have also implemented their own specific regulations against California nursery stock after the positive find in a southern California nursery. Millions of dollars of nursery stock have already been destroyed with little or no compensation for the growers.

Additionally, the alarming discovery that evidence of DNA has been found on California's coastal redwoods and Big Leaf Maples in the foothills of the Sierra Nevada raises our concerns to a much higher level. Should the Sudden Oak Death pathogen establish itself in the Sierra Nevada, California's commercial forest industry as well as prized recreation areas would be severely impacted. If this proves to be true, the economic and ecological costs to California would be incalculable.

If Sudden Oak Death is left unchecked, the landscape of California and the economic livelihoods of many will be forever changed. It's been almost ten years since the first detailed accounts of large numbers of tanoaks were observed dying in Marin and Santa Cruz Counties and already a difference in the landscape can be noted.

Mr. Speaker, depending on the plant species, P. ramorum infection may occur on the trunk, branches, and/or leaves. Infections on the woody portions of a tree are referred to as cankers. Cankers on the trunk of oak and tanoak trees are the most damaging, and often lead to death.

Additionally, diseased oak and tanoak trees are often attacked by other organisms once they are weakened by P. ramorum. It has also been found to infect the leaves and twigs of numerous other plants species. While many of these foliar hosts, such as California bay laurel and Rhododendron species, do not die from the disease, they do play a key role in the spread of P. ramorum, acting as breeding ground for innoculum, which may then be spread through wind-driven rain, water, plant material, or human activity.

Mr. Speaker, we currently know that the total number of APHIS-confirmed positive sites from the trace-forward, national, and other survey finds is 160 in 21 states and the number realistically is much higher considering the current scope of testing. This number ranges from single event sites to as many as 53 in my state of California.

The time to act is now and passage of H.R. 4569 is a great step forward. We must stop the further spread of Sudden Oak Death.

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

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

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from North Carolina (Mr. HAYES) that the House suspend the rules and pass the bill, H.R. 4569.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

PENNSYLVANIA NATIONAL FOREST IMPROVEMENT ACT OF 2004

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3514) to authorize the Secretary of Agriculture to convey certain lands and improvements associated with the National Forest System in the State of Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3514

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Pennsylvania National Forest Improvement Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Disposal of administrative sites, Allegheny National Forest, Pennsylvania.
Sec. 3. Conveyance of Sheffield Ranger District Headquarters, Warren County, Pennsylvania.
Sec. 4. Conveyance of Ridgeway Ranger District Headquarters, Elk County, Pennsylvania.
Sec. 5. Conveyance of Marienville Ranger Residence, Forest County, Pennsylvania.
Sec. 6. Disposition of funds.
Sec. 7. Administration of land acquired by United States.
Sec. 8. Relation to other conveyances authorities.

SEC. 2. DISPOSAL OF ADMINISTRATIVE SITES, ALLEGHENY NATIONAL FOREST, PENNSYLVANIA.

(a) DISPOSAL AUTHORITY.—The Secretary of Agriculture may convey, by sale or exchange, any and all right, title, and interest of the United States in and to the following National Forest System lands and administrative sites in the Allegheny National Forest, in Pennsylvania:

(1) US Tract 121, Sheffield ranger residence, consisting of 0.41 acres, as depicted on the map titled ''Allegheny Unit, Allen M. Gibson Tract 121, March 1942''.

(2) US Tract 896, an undeveloped administrative site, consisting of 2.42 acres, as depicted on the map titled ''Allegheny Unit, Howard L. Harp Tract 896, 1947''.

(3) US Tract 1047 (formerly Tracts 551, 551a,b,c), original Marienville Ranger District Headquarters, consisting of 4.90 acres, as depicted on the map titled ''Marienville Ranger Station Compound Tract 1047, August 1998''.

(4) US Tract 844, Marienville ranger residence, as depicted on the map titled ''Allegheny Unit, Peter B. DeSmet Tract 844, 1936'', except that portion of the tract identified as Lot 2, on the Survey Plat prepared by D. M. Heller and dated December 12, 1999, which is subject to conveyance under section 5.

(b) PROPERTY DESCRIPTIONS.—The maps referred to in subsection (a) are the primary descriptions of the lands to which the maps refer. In the event of a conflict between a map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The maps shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(c) CONSIDERATION.—

(1) AUTHORIZED CONSIDERATION.—As consideration for a conveyance of land under subsection (a), the recipient of the land, with the consent of the Secretary, may convey to the Secretary other land, existing improvements, or improvements constructed to the specifications of the Secretary.

(2) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any land and administrative site exchanged under subsection (a).

(d) APPLICABLE LAW.—Except as otherwise provided in this section, any conveyance of land under subsection (a) shall be subject to the laws and regulations applicable to the conveyance and acquisition of land for the National Forest System.

(e) SOLICITATION OF OFFERS.—

(1) CONVEYANCE PRIORITY.—In the selection of the recipient of land under this section, the Secretary may give a preference to public entities that agree to use the land for public purposes.

(2) TERMS AND CONDITIONS.—The Secretary may solicit offers for the conveyance of land under this section on such terms and conditions as the Secretary may prescribe.

(3) REJECTION OF OFFERS.—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(f) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 3. CONVEYANCE OF SHEFFIELD RANGER DISTRICT HEADQUARTERS, WARREN COUNTY, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Agriculture may convey to the Warren County Development Association of Warren County, Pennsylvania, all right, title, and interest of the United States in

and to US Tract 770, Sheffield Ranger District Headquarters, consisting of 5.50 acres, as depicted on the map titled ''Allegheny Unit, Elk Tanning Company Tract 770, 1934''.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Warren County Development Association shall make to the Secretary a lump sum payment of $100,000.

(c) PROPERTY DESCRIPTION.—The map referred to in subsection (a) is the primary description of the lands to which the map refers. In the event of a conflict between the map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(d) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 4. CONVEYANCE OF RIDGEWAY RANGER DISTRICT HEADQUARTERS, ELK COUNTY, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Agriculture may convey to Ridgeway Township, Pennsylvania, all right, title, and interest of the United States in and to US Tract 904, consisting of 8.812 acres, and US Tract 905, consisting of 0.869 acres, Ridgway Ranger District Headquarters, as depicted on the maps titled ''Allegheny Unit, Harry R. Eliza E. Larson Tract 904, 1959'' and ''Allegheny Unit, Leo S. Laura A. Guth Tract 905, July 1948''.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), Ridgeway Township shall pay to the Secretary an amount equal to the fair market value of the conveyed lands, as determined by an appraisal acceptable to the Secretary and Ridgeway Township.

(c) PROPERTY DESCRIPTION.—The maps referred to in subsection (a) is the primary description of the lands to which the maps refer. In the event of a conflict between a map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The maps shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(d) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 5. CONVEYANCE OF MARIENVILLE RANGER RESIDENCE, FOREST COUNTY, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Agriculture may convey, without consideration, to the Marienville Volunteer Fire Department of Forest County, Pennsylvania, all right, title, and interest of the United States in and to that portion of US Tract 844, Marienville ranger residence, as depicted on the map titled ''Allegheny Unit, Peter B. DeSmet Tract 844, 1936'', which is identified as Lot 2 on the Survey Plat prepared by D. M. Heller and dated December 12, 1999.

(b) PROPERTY DESCRIPTION.—The map referred to in subsection (a) is the primary description of the lands to which the map refers. In the event of a conflict between the map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(c) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 6. DISPOSITION OF FUNDS.

(a) DEPOSIT IN SISK ACT FUND.—The Secretary of Agriculture shall deposit in the fund established under Public Law 90–171 (16 U.S.C. 484a; commonly known as the Sisk Act)—

(1) the proceeds of a sale or exchange under section 2; and

(2) the consideration received pursuant to sections 3(b) and 4(b).

(b) USE OF PROCEEDS.—Subject to subsection (c), funds deposited under subsection (a) shall be available to the Secretary, without further appropriation, for—

(1) the acquisition, construction, or improvement of administrative facilities and sites for the Allegheny National Forest; or

(2) the acquisition of land and interests in land in the Allegheny National Forest.

(c) CONDITION ON LAND ACQUISITION.—The acquisition of lands in the Allegheny National Forest using funds deposited under subsection (a) is subject to the condition that the market value of the acquired lands may not exceed 125 percent of the market value of the lands disposed of under this Act.

SEC. 7. ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.

Lands acquired by the Secretary of Agriculture under section 6(b) or by exchange under section 2 shall be managed by the Secretary in accordance with the Act of March 1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 480 et seq.) and other laws and regulations pertaining to National Forest System lands. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Allegheny National Forest, as adjusted on account of the disposal and acquisition of lands under this Act, shall be considered to be the boundaries of that national forest as of January 1, 1965.

SEC. 8. RELATION TO OTHER CONVEYANCES AUTHORITIES.

Except as expressly provided in this Act, nothing in this Act affects any other authority of the Secretary of Agriculture to sell, exchange, or acquire land. Lands authorized for disposal under this Act shall not be subject to subchapters II and III of chapter 5 of title 40, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3514, as amended, the Pennsylvania National Forest Improvement Act of 2004, introduced by the gentleman from Pennsylvania (Mr. PETERSON), authorizes the Secretary of Agriculture to sell or convey six parcels of land from the Allegheny National Forest to local municipalities or private individuals. All of these parcels, totaling just over 22 acres, have been identified by the Forest Service as outlying parcels that are not connected to the National Forest. Three of the parcels would be conveyed to local government agencies, allowing them to consolidate operations to better serve their communities. Proceeds from these sales will be used to improve administrative sites and acquire inholdings from willing sellers. I urge my colleagues to support this bill.

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

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume. I rise to express my support also for H.R. 3514, the Pennsylvania National Forest Improvement Act of 2004. This legislation allows the Secretary of Agriculture to sell or convey six parcels of land from the Allegheny National Forest in Pennsylvania to local municipalities or private individuals.

According to the U.S. Forest Service, the sale or conveyance of these parcels is necessary because they are administrative sites which actually exceed their worth in terms of management. The parcels in question have been identified as outlying parcels by the Forest Service. Three of the parcels would be conveyed to local government agencies, allowing them to better serve their communities. Proceeds from the sale of the parcels will be used to improve administrative sites and to acquire inholdings from willing sellers. For all these reasons, I urge my colleagues to support this legislation.

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

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Pennsylvania (Mr. PETERSON), the author of the legislation.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I would like to thank both the chairman and the ranking member for bringing this legislation up. It is very simple. They have explained it well. The Allegheny National Forest is a 600,000-acre forest in northwestern Pennsylvania. These parcels were used for some of their management facilities that have now been relocated on the forest in new facilities.

Some of these plots of land have nice buildings on them. They are deteriorating. They need to be turned back over into the private sector, into the local government sector. One piece will go to the local fire department in Marionville, Pennsylvania, which will help them expand their service for the community there. Another one will be to the Ridgway Township whose facilities border this land. It will assist them. In fact, the facility will enhance their ability to serve their community. Another parcel will go to the county economic development agency for further development of the economy in that region. The other parcels will be put up for sale, and the cash will be used to enhance the many facilities that are on the Allegheny National Forest. The use of those facilities continues to grow, but there is a lot of

maintenance, there are a lot of enhancements needed to serve the growing public use of the forest. I just want to thank the committee and all those for bringing this forward and ask my colleagues to pass this legislation. It is good government.

Mr. STENHOLM. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 3514, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3514, the bill just passed.

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

There was no objection.

HONORING THE SERVICE OF NATIVE AMERICAN INDIANS IN THE UNITED STATES ARMED FORCES

Mr. COLE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 306) honoring the service of Native American Indians in the United States Armed Forces, as amended.

The Clerk read as follows:

H. CON. RES. 306

Whereas American Indians have served with distinction in the United States Armed Forces and in military actions for more than 200 years;

Whereas the courage, determination, and fighting spirit of American Indians were strengths recognized and valued by American military leaders;

Whereas nearly 190,000 American Indian veterans have fought for the United States in the struggle for freedom and peace, often in a percentage well above their percentage of the population of the United States as a whole;

Whereas the Elders of the American Indian Society have proclaimed that official recognition of the military service of American Indians would help engender a sense of self-esteem and pride in American Indians;

Whereas, although November 11, Veterans Day, marks a day of observance for all veterans who served in the Armed Forces, the establishment of a specific National American Indian Veterans Day would honor the service of American Indians in the Armed Forces; and

Whereas November 7, a date during the annual National American Indian Heritage Month, would be an appropriate day to establish as National American Indian Veterans Day: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the service of American Indians in the Armed Forces;

(2) recommends the establishment of a National American Indian Veterans Day;

(3) encourages all Americans to learn about the history of the service of American Indians in the Armed Forces; and

(4) requests the President to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies, activities, and programs to demonstrate their support for American Indian veterans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma (Mr. COLE) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. COLE).

GENERAL LEAVE

Mr. COLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

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

There was no objection.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Concurrent Resolution 306, a resolution that honors the service of Native Americans in the Armed Forces of the United States. As a proud member of the Chickasaw Nation, it is a great honor for me to speak in tribute of the thousands of Native Americans who have worn the uniform of the United States or served in the ranks of our military throughout our history. As the heirs of their own proud warrior traditions that precede the founding of the United States, Native Americans have made notable contributions to the Armed Forces of our country from its very inception.

□ 1745

Even in the 19th century, an era of conflict between Indian nations and the United States, Native Americans could be found serving in and with our military. Native Americans fought with Andrew Jackson at the Battle of New Orleans. A Native American was a member of General Grant's staff at Appomattox. And Indian scouts played a critical role throughout the wars on the American Plains.

In the 20th century, Choctaw Indians from Oklahoma were used as Code Talkers in the trenches of Europe during the First World War. In World War II, the Comanche Code Talkers from the district I represent in Oklahoma sent the first messages on D-Day. And of course the Navajo Code Talkers who fought and died on the other side of the world helped turn the tide of war in the Pacific.

Two of the five Native American Congressional Medal of Honor recipients are from my home State of Oklahoma. Jack C. Montgomery, a Cherokee; and Ernest Childers, a Creek, served our country with great distinction. More recently, my fellow Chickasaw, Commander John Herrington, became the first Native American astronaut. Even now he is training in Russia for his next mission.

But, Mr. Speaker, not all Native American soldiers are scouts, Code Talkers, Medal of Honor recipients, or astronauts. Most serve in the ranks and at the same jobs as their fellow Americans. I think of my uncle who joined the Navy, fought in the Philippines, and endured 3½ years in Japanese prison camps during World War II. Or my brother, John Cole Jr., who followed my father, a career Air Force noncommissioned officer, and enlisted in the United States Air Force during the Vietnam era. They are typical of the thousands of American Indians who have served our country in times of peril.

That tradition of service continues today. Native Americans volunteer for military service at a higher rate than any other racial or ethnic group in America. This concurrent resolution which honors their gallant service comes as we celebrate the opening of the Smithsonian's National Museum of the American Indian. That institution honors the rich history and enormous contributions made by the First Americans to all Americans.

I congratulate the gentleman from Arizona (Mr. RENZI), the proud son of a career officer and a former member of the Defense Department who represents thousands of Native Americans, for his fine work on this concurrent resolution. And I encourage all my colleagues to join him in honoring the outstanding Native American warriors who have served our country in peace and war.

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

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I rise in support of House Concurrent Resolution 306, introduced by the gentleman from Arizona (Mr. RENZI). I would like to recognize the gentleman from Arizona for his efforts to bring forward this resolution honoring the service of Native American Indians in the United States Armed Forces. I also wish to recognize the gentleman from Oklahoma (Mr. COLE), my colleague on the House Committee on Armed Services, for his support of this bill. We thank him for that.

For over 200 years, Native American Indians have distinguished themselves in military action. Most Americans would be surprised to learn that since the founding of our country, Native American Indians have made substantial contributions to our Nation's defense.

Our Nation is at war, and our troops are serving on the front lines in combat in the Middle East. Of those serving in uniform, nearly 19,000 are American Indians and Native Alaskans, and over 3,000 of them, Mr. Speaker, are women.

There are more than 2,000 Native Americans and Alaskan Natives deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom. Over 1,000 American servicemembers have been killed while in service to our Nation; and while we honor all those who have given their lives to defend our freedoms, today we recognize the 13 Native Americans and Alaskan Natives among them that made the ultimate sacrifice.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I rise in support of House Concurrent Resolution 306, introduced by Mr. RENZI. I would like to recognize the gentleman from Arizona for his efforts to bring forward this resolution honoring the service of Native American Indians in the United States Armed Forces. I would also like to recognize Mr. COLE, my colleague on the House Armed Services Committee, for his support of this bill.

For over 200 years, Native American Indians have distinguished themselves in military action. Most Americans would be surprised to learn that since the founding of our country, Native American Indians have made substantial contributions to our Nation's defense.

More than 12,000 American Indians are believed to have served in the United States Armed Forces during World War I. Nearly 600 Choctaw and Cherokee Indians from Oklahoma, assigned to the 142 Infantry of the 36th Texas-Oklahoma National Guard Division, distinguished themselves on the battlefields of France. Four American Indians from the 142nd were awarded the Croix de Guerre to recognize their bravery in the face of enemy action. Also lesser known during World War I was the use of the Choctaw language to encode military messages.

When World War II dropped on the shores of America there were less than 350,000 American Indians, yet more than 44,000 volunteered to serve this nation in uniform. It is only relatively recent that Americans finally learned the valuable contributions Native American Indians made to the war effort. Nearly 50 years after the war, the veil of secrecy was finally raised and Americans learned the true story of the legendary Navajo Code Talkers.

Navajo Code Talkers took part in every assault the U.S. Marines conducted in the Pacific from 1942 to 1945. In May 1942, the original 29 Navajo recruits helped to develop a dictionary of military terms that were required to be memorized during basic training. While the Japanese were able to decipher the codes used by the Army and Army Air Corps, they were never able to crack the Navajo code used by the Marines. Over the course of the war, nearly 500 Navajos served as code talkers, and it was not until September 17, 1992, that the United States finally recognized and appropriately honored the Navajos for their extraordinary contribution to the war.

American Indians, however, served in both the Pacific and European theatre during World War II, and three were bestowed the Nation's highest military award—the Congressional Medal of Honor—Jack Montgomery, a Cherokee from Oklahoma; Ernest Childers, a Creek from Oklahoma; Van Barfoot, a Choctaw from Mississippi.

Native American Indians also distinguished themselves in battle during the Korean conflict. Two American Indians were also awarded the Congressional Medal of Honor for their actions on the battlefield. Mitchell Red Cloud, Jr. a Winnebago from Wisconsin; and Charles George, a Cherokee from North Carolina.

Once again, our Nation is at war and our troops are serving on the front lines of combat in the Middle East. Of those serving in the uniform services, nearly 19,000 are American Indians and Native Alaskans, and over 3,000 of those are women.

There are more than 2,000 Native American and Alaskan Natives deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom. Over 1,000 American service members have been killed while in service to our Nation, and while we honor all those who have given their lives to defend our freedoms, today we recognize the 13 Native American Indians and Alaskan Natives among them that made the ultimate sacrifice.

The most prominent is the first service woman killed in action. Army Specialist Lori Piestewa, a Hopi Indian, who grew up on the reservation near Tuba City in Arizona. She is also the first Native American service woman to be killed in combat. The 507th Maintenance Company to which she was assigned was ambushed by enemy forces on March 23, 2003, near Nasiriyah, Iraq. She along with the 12 other Native American Indians and Alaskan Natives will be remembered for their devotion to duty and sacrifice in service to this Nation.

I am proud to be here to honor Native American Indians and all Native Americans for their rich tradition of strength, wisdom, and warrior ethos. And, I commend them and all those in uniform who have volunteered to defend the rights and freedoms that we all hold dear.

Mr. Speaker, I urge my colleagues to support this resolution.

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

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the distinguished gentleman from Missouri, my good friend, for his support of this resolution and, frankly, for the terrific work he does for veterans of all stripes, all colors, all varieties, all nationalities. Nobody is a better friend to the American soldier and the American veteran than my good friend from Missouri.

I had the good fortune, Mr. Speaker, recently to visit Iraq and Afghanistan. And while there, I talked to a number of my fellow Oklahomans who are also Native Americans and continue that proud tradition of serving their country and honoring their tribes. Many of them remarked quite movingly the fact that they were part of a centuries-old tradition that they took with enormous seriousness. And, Mr. Speaker, they continue that proud tradition of service today as generation after generation enlists.

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

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Oklahoma (Mr. COLE) for his leadership on this as well as the gentleman from Arizona (Mr. RENZI). I think it is very important that we recognize this very important segment of American society, the Native Americans and the Alaskan Americans.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of House Concurrent Resolution 306, which honors the service of Native Americans in the Armed Forces.

The gentleman from Arizona (Mr. RENZI) and I have had the privilege of representing large portions of the Navajo Nation, one of the largest tribes in the United States. New Mexico also is the home of two Apache nations and 19 pueblos.

According to the last Census, there are now over 190,000 Native American veterans, constituting the highest rate of service of any ethnic group in our country. Two weeks ago when the Museum of the American Indian opened on the National Mall, Native Americans from around the hemisphere traveled to Washington to celebrate, honor, and preserve Native American culture. One aspect of that culture is the value of service. One of the best examples is the Navajo Code Talkers, a group of soldiers who have been credited with saving the lives of countless American soldiers with their unbreakable code in the Second World War.

These individuals risked their lives for our freedom at a time when some considered them second-class citizens. Their code was so successful and so critical to keep secret that some Code Talkers were guarded by fellow Marines whose role was to kill them in case of imminent capture by the enemy. The Code Talkers set a fine example of service for generations to come.

A reminder of the brave service that Native Americans provide to our country was brought to light once again last year when Army Private First Class Lori Piestewa of Arizona gave her life in the war in Iraq. Private Piestewa is believed to be the first Native American woman to be killed in the U.S. Armed Forces combat.

This concurrent resolution, which calls for the establishment of a National Native American Indian Veterans Day, is a fitting way to honor America's first sons and daughters in arms. This concurrent resolution's adoption will serve as a tribute not only to the Native Americans who have served our country well but also to their families and communities who have supported them.

I urge its adoption and have enjoyed very much working with the gentleman from Oklahoma (Mr. COLE) and the gentleman from Arizona (Mr. RENZI) and the other cosponsors on this, and I

urge all Members to support this concurrent resolution.

Mr. COLE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona (Mr. RENZI), the author of this resolution.

Mr. RENZI. Mr. Speaker, I thank the gentleman from Oklahoma for yielding me this time.

Mr. Speaker, it is a privilege to stand before the House today to recognize our Nation's Native American veterans. I thank the gentleman from New Mexico (Mr. UDALL), who has worked very closely with me and my staff to recognize these brave warriors.

I have the privilege to represent eight tribes in Arizona, the largest of which is the Navajo Nation, home to the Navajo Code Talkers.

On my travels throughout Arizona district one, I have met many of these veterans and have heard their stories of sacrifice, valor, and patriotism and have seen firsthand their fighting warrior spirit that reinforces their commitment to serve our Nation in the Armed Forces.

Native American Indians and these veterans have served our Nation in battle long before they were ever considered citizens of the United States. From the Revolutionary War to the war in Iraq, a strong sense of patriotism and protecting the homeland has prompted Native Americans to answer our Nation's call. Many Native Americans come from rural areas where they learn to rely on the land and they learn to rely on each other for self-preservation and the family and the tribe and their national sovereign nation. These are inherent characteristics found in the best and brightest of our service personnel.

Five Congressional Medal of Honor recipients are Native Americans. Last year on Veteran's Day, I had the honor of presenting the Congressional Silver Medal in honor of nine Navajo Code Talkers on behalf of President Bush. This distinguished group of soldiers used their distinctive language to defeat the enemy in World War II. Today in the communities on the Navajo Nation, they are revered and are respected elders among the entire Navajo Nation because of their service to this country. It is an honor to recognize their service and to walk with them. And I rise today to give them our respect and the honor due from this Nation to those Native American veterans, whom we are so grateful and appreciative of their service.

Mr. Speaker, I thank the gentleman from Oklahoma (Mr. COLE) for the representation and hard work that he has shown particularly on this issue.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Ms. BOSWELL).

(Ms. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. Mr. Speaker, I am very happy today to represent those in my district, an extension of the Sac and Fox Tribe, Meskwakis, great Americans, Native Americans, and a number of those that live in that settlement, as they refer to it there, in Tama County, Iowa, that I know that served as I did in Vietnam and other places. And I associate myself with the comments that have been made already by my colleagues. They have provided and will continue to provide a great service to our Nation. They always have. They are willing to step up and be counted and do their part and many times do more than their part. I found them to be very self-giving, to be sure; that the freedoms they enjoy at this time, regardless of the historical circumstances, they love our Nation, and they serve it with honor and distinction, and I am satisfied that they will continue to always do that.

So I appreciate the effort that has gone in to presenting this to us today, and I think that this is the right thing to do, and we probably ought to do this more often. So I am proud to share in these compliments to Native Americans. I urge adoption of the concurrent resolution.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of H. Con. Res. 306, which honors the service of American Indian Veterans.

For more than 200 years, about 190,000 American Indians have served and defended this great country in military action. Their service is pronounced during our major wars. President Theodore Roosevelt and his Rough Riders recruited American Indian Scouts for the Spanish-American War. Choctaw Indians were used as Codetalkers in World War I. Comanche Codetalkers sent the first message on D-Day. When the United States has needed them in combat, American Indians volunteered to serve, regardless of whether they were federal citizens.

Today we are honoring American Indian veterans just like every year at hundreds of Pow Wows American Indians honor all American veterans. During these annual tribal celebrations, the "Prisoner of War/Missing in Action" flag is presented while the honor drum plays a "Veterans Song." Veterans take part in an honor dance, and are recognized for their heroism and service to our country.

I am proud to be part of this Congress that today recognizes the American Indians who have served our country. They have served bravely, and deserve our recognition. I thank Congressman RICK RENZI for introducing this worthy bill.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Oklahoma (Mr. COLE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 306, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution honoring the service of American Indians in the United States Armed Forces.".

A motion to reconsider was laid on the table.

□ 1800

UNIVERSAL NATIONAL SERVICE ACT OF 2003

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 163) to provide for the common defense by requiring that all young persons in the United States, including women, perform a period of military service or a period of civilian service in furtherance of the national defense and homeland security, and for other purposes.

The Clerk read as follows:

H.R. 163

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Universal National Service Act of 2003".

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

Sec. 1. Short title; table of contents.
Sec. 2. National service obligation.
Sec. 3. Two-year period of national service.
Sec. 4. Implementation by the President.
Sec. 5. Induction.
Sec. 6. Deferments and postponements.
Sec. 7. Induction exemptions.
Sec. 8. Conscientious objection.
Sec. 9. Discharge following national service.
Sec. 10. Registration of females under the Military Selective Service Act.
Sec. 11. Relation of Act to registration and induction authority of Military Selective Service Act.
Sec. 12. Definitions.

SEC. 2. NATIONAL SERVICE OBLIGATION.

(a) OBLIGATION FOR YOUNG PERSONS.—It is the obligation of every citizen of the United States, and every other person residing in the United States, who is between the ages of 18 and 26 to perform a period of national service as prescribed in this Act unless exempted under the provisions of this Act.

(b) FORM OF NATIONAL SERVICE.—National service under this Act shall be performed either—

(1) as a member of an active or reverse component of the uniformed services; or

(2) in a civilian capacity that, as determined by the President, promotes the national defense, including national or community service and homeland security.

(c) INDUCTION REQUIREMENTS.—The President shall provide for the induction of persons covered by subsection (a) to perform national service under this Act.

(d) SELECTION FOR MILITARY SERVICE.—Based upon the needs of the uniformed services, the President shall—

(1) determine the number of persons covered by subsection (a) whose service is to be performed as a member of an active or reverse component of the uniformed services; and

(2) select the individuals among those persons who are to be inducted for military service under this Act.

(e) CIVILIAN SERVICE.—Persons covered by subsection (a) who are not selected for military service under subsection (d) shall perform their national service obligation under this Act in a civilian capacity pursuant to subsection (b)(2).

SEC. 3. TWO-YEAR PERIOD OF NATIONAL SERVICE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the period of national service performed by a person under this Act shall be two years.

(b) GROUNDS FOR EXTENSION.—At the discretion of the President, the period of military service for a member of the uniformed services under this Act may be extended—

(1) with the consent of the member, for the purpose of furnishing hospitalization, medical, or surgical care for injury or illness incurred in line of duty; or

(2) for the purpose of requiring the member to compensate for any time lost to training for any cause.

(c) EARLY TERMINATION.—The period of national service for a person under this Act shall be terminated before the end of such period under the following circumstances:

(1) The voluntary enlistment and active service of the person in an active or reverse component of the uniformed services for a period of at least two years, in which case the period of basic military training and education actually served by the person shall be counted toward the term of enlistment.

(2) The admission and service of the person as a cadet or midshipman at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the Coast Guard Academy, or the United States Merchant Marine Academy.

(3) The enrollment and service of the person in an officer candidate program, if the person has signed an agreement to accept a Reserve commission in the appropriate service with an obligation to serve on active duty if such a commission is offered upon completion of the program.

(4) Such other grounds as the President may establish.

SEC. 4. IMPLEMENTATION BY THE PRESIDENT.

(a) IN GENERAL.—The President shall prescribe such regulations as are necessary to carry out this Act.

(b) MATTER TO BE COVERED BY REGULATIONS.—Such regulations shall include specification of the following:

(1) The types of civilian service that may be performed for a person's national service obligation under this Act.

(2) Standards for satisfactory performance of civilian service and of penalties for failure to perform civilian service satisfactorily.

(3) The manner in which persons shall be selected for induction under this Act, including the manner in which those selected will be notified of such selection.

(4) All other administrative matters in connection with the induction of persons under this Act and the registration, examination, and classification of such persons.

(5) A means to determine questions or claims with respect to inclusion for, or exemption or deferment from induction under this Act, including questions of conscientious objection.

(6) Standards for compensation and benefits for persons performing their national service obligation under this Act through civilian service.

(7) Such other matters as the President determines necessary to carry out this Act.

(c) USE OF PRIOR ACT.—To the extent determined appropriate by the President, the President may use for purposes of this Act the procedures provided in the Military Selective Service Act (50 U.S.C. App. 451 et seq.), including procedures for registration, selection, and induction.

SEC. 5. INDUCTION.

(a) IN GENERAL.—Every person subject to induction for national service under this Act, except those whose training is deferred or postponed in accordance with this Act, shall be called and inducted by the President for such service at the time and place specified by the President.

(b) AGE LIMITS.—A person may be inducted under this Act only if the person has attained the age of 18 and has not attained the age of 26.

(c) VOLUNTARY INDUCTION.—A person subject to induction under this Act may volunteer for induction at a time other than the time at which the person is otherwise called for induction.

(d) EXAMINATION; CLASSIFICATION.—Every person subject to induction under this Act shall, before induction, be physically and mentally examined and shall be classified as to fitness to perform national service. The President may apply different classification standards for fitness for military service and fitness for civilian service.

SEC. 6. DEFERMENTS AND POSTPONEMENTS.

(a) HIGH SCHOOL STUDENTS.—A person who is pursuing a standard course of study, on a full-time basis, in a secondary school or similar institution of learning shall be entitled to have induction under this Act postponed until the person—

(1) obtains a high school diploma;

(2) ceases to pursue satisfactorily such course of study; or

(3) attains the age of 20.

(b) HARDSHIP AND DISABILITY.—Deferments from national service under this Act may be made for—

(1) extreme hardship; or

(2) physical or mental disability.

(c) TRAINING CAPACITY.—The President may postpone or suspend the induction of persons for military service under this Act as necessary to limit the number of persons receiving basic military training and education to the maximum number that can be adequately trained.

(d) TERMINATION.—No deferment or postponement of induction under this Act shall continue after the cause of such deferment or postponement ceases.

SEC. 7. INDUCTION EXEMPTIONS.

(a) QUALIFICATIONS.— No person may be inducted for military service under this Act unless the person is acceptable to the Secretary concerned for training and meets the same health and physical qualifications applicable under section 505 of title 10, United States Code, to persons seeking original enlistment in a regular component of the Armed Forces.

(b) OTHER MILITARY SERVICE.—No person shall be liable for induction under this Act who—

(1) is serving, or has served honorably for at least six months, in any component of the uniformed services on active duty; or

(2) is or becomes a cadet or midshipman at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the Coast Guard Academy, the United States Merchant Marine Academy, a midshipman of a Navy accredited State maritime academy, a member of the Senior Reserve Officers' Training Corps, or the naval aviation college program, so long as that person satisfactorily continues in and completes two years training therein.

SEC. 8. CONSCIENTIOUS OBJECTION.

(a) CLAIMS AS CONSCIENTIOUS OBJECTOR.—Any person selected under this Act for induction into the uniformed services who claims, because of religious training and belief (as defined in section 6(j) of the Military Selective Service Act (50 U.S.C. 456(j))), exemption from combatant training included as part of that military service and whose claim is sustained under such procedures as the President may prescribe, shall, when inducted, participate in military service that does not include any combatant training component.

(b) TRANSFER TO CIVILIAN SERVICE.—Any such person whose claim is sustained may, at the discretion of the President, be transferred to a national service program for performance of such person's national service obligation under this Act.

SEC. 9. DISCHARGE FOLLOWING NATIONAL SERVICE.

(a) DISCHARGE.—Upon completion or termination of the obligation to perform national service under this Act, a person shall be discharged from the uniformed services or from civilian service, as the case may be, and shall not be subject to any further service under this Act.

(b) COORDINATION WITH OTHER AUTHORITIES.—Nothing in this section shall limit or prohibit the call to active service in the uniformed services of any person who is a member of a regular or reserve component of the uniformed services.

SEC. 10. REGISTRATION OF FEMALES UNDER THE MILITARY SELECTIVE SERVICE ACT.

(a) REGISTRATION REQUIRED.—Section 3(a) of the Military Selective Service Act (50 U.S.C. 453(a)) is amended—

(1) by striking ''male'' both places it appears;

(2) by inserting ''or herself'' after ''himself''; and

(3) by striking ''he'' and inserting ''the person''.

(b) CONFORMING AMENDMENT.—Section 16(a) of the Military Selective Service Act (50 U.S.C. App. 466(a)) is amended by striking ''men'' and inserting ''persons''.

SEC. 11. RELATION OF ACT TO REGISTRATION AND INDUCTION AUTHORITY OF MILITARY SELECTIVE SERVICE ACT.

(a) REGISTRATION.—Section 4 of the Military Selective Service Act (50 U.S.C. App. 454) is amended by inserting after subsection (g) the following new subsection:

''(h) This section does not apply with respect to the induction of persons into the Armed Forces pursuant to the Universal National Service Act of 2003.''.

(b) INDUCTION.—Section 17(c) of the Military Selective Service Act (50 U.S.C. App. 467(c)) is amended by striking ''now or hereafter'' and all that follows through the period at the end and inserting ''inducted pursuant to the Universal National Service Act of 2003.''.

SEC. 12. DEFINITIONS.

In this Act:

(1) The term ''military service'' means service performed as a member of an active or reverse component of the uniformed services.

(2) The term ''Secretary concerned'' means the Secretary of Defense with respect to the Army, Navy, Air Force, and Marine Corps, the Secretary of Homeland Security with respect to the Coast Guard, the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

(3) The term ''United States'', when used in a geographical sense, means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(4) The term ''uniformed services'' means the Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned corps of the National Oceanic and Atmospheric Administration, and commissioned corps of the Public Health Service.

Mr. RANGEL. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore (Mr. OSE). Does the gentleman propose a parliamentary inquiry?

PARLIAMENTARY INQUIRY

Mr. RANGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Mr. Speaker, I would like to inquire whether the proponent of this motion to suspend supports the bill, and, if he does not, whether or not his motion is in order.

Mr. MCHUGH. Is that a parliamentary inquiry?

Mr. RANGEL. Yes, it is.

Mr. MCHUGH. I know the gentleman thinks it is. I am waiting for direction from the Chair.

The SPEAKER pro tempore. Under the rule, the question of who controls time in favor of the motion is relevant.

Does the gentleman from New York (Mr. MCHUGH) favor the resolution?

Mr. MCHUGH. Mr. Speaker, I would say I support the consideration of the this bill at this time.

The SPEAKER pro tempore. Would the gentleman repeat his comment?

Mr. MCHUGH. Mr. Speaker, I fully support the consideration of this bill at this time.

Mr. RANGEL. Mr. Speaker, the question that I raised before I raised the point of order is not whether he supports consideration of the bill but whether he supports the bill.

The SPEAKER pro tempore. Under rule XV, if the proponent of the resolution does not favor the resolution, then another Member may claim the 20 minutes in support of the motion.

Mr. RANGEL. Mr. Speaker, based on that, I raise a point of order, and I would like to claim the time in support of the resolution.

Mr. MCHUGH. Mr. Speaker, I would say, if I may, in response to the gentleman's claim, that I am disappointed he has less faith in his power of persuasion than I do, because I came here prepared to be persuaded. But if I must decide now, I would vote no, so I do not claim to be a proponent of the bill.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) may control 20 minutes in support of the bill.

Mr. MCHUGH. Mr. Speaker, that leaves me where? I would claim the time in opposition.

The SPEAKER pro tempore. The Chair affirms that 20 minutes is reserved for a Member in opposition. The gentleman from New York (Mr. MCHUGH) may claim that time.

Mr. MCHUGH. Under the rules of the House, I would claim that time in opposition.

Mr. SKELTON. Mr. Speaker, I claim the time in opposition to this bill.

Mr. MCHUGH. Mr. Speaker, I believe the time has already been claimed.

The SPEAKER pro tempore. As a matter of recognition, the Chair would award the 20 minutes in opposition to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Speaker, as a matter of comity, I would be happy to split the time in opposition with the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member on the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, so I understand, am I entitled to the time in opposition? I am the ranking member of the Committee on Armed Services.

The SPEAKER pro tempore. Without objection, the gentleman from Missouri (Mr. SKELTON) will control 10 minutes, half of the time in opposition.

There was no objection.

Mr. SKELTON. Mr. Speaker, I am claiming the entire time in opposition, as the ranking member of the Committee on Armed Services.

The SPEAKER pro tempore. The Chair has awarded the 20 minutes in opposition to the gentleman from New York (Mr. MCHUGH), who, by unanimous consent, has agreed to split the time with the gentleman from Missouri (Mr. SKELTON).

Just to summarize, the Chair would advise that the gentleman from New York (Mr. RANGEL) will control 20 minutes, the gentleman from New York (Mr. MCHUGH) will control 10 minutes and the gentleman from Missouri (Mr. SKELTON) will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill because it gives this great august body an opportunity for the first time to discuss whether or not the administration or the party in the majority intends to have a draft.

I suspect that one of the reasons that this has to be cleared up before the election, the evidence clearly indicates that everyone in the Pentagon, the Defense Department, has indicated that we need a robust military force in Iraq. All of the evidence indicates that we have exhausted our active troops; we are exhausting the Reserves; we are exhausting the National Guard.

We have a back-door draft, where we do not let people who enlisted and have finished their term get out. In addition to that, the Army is over there in combat. Where the normal term is 1 year, the Pentagon has indicated they are going to reduce it to 6 months, to go along with what the Marines do, because of fatigue.

It just seems to me as many times as the administration says that they are against a draft, all we hear on the Internet and around the country is that, after the election, they are going to have the draft.

If they are going to have the draft, I support this legislation, even though, quite frankly, I would have preferred that the bill be referred to the Committee on Armed Services, because I think it is important enough to have hearings on this matter and for the administration to really show why they really do not need to get people through an involuntary conscription.

But since they knew I had this bill and since they knew it was election time, I rise in support of the bill, even though I would gladly yield to the committees of jurisdiction, because it just seems to me that, if we abuse the system by continually taking legislation for the purpose of embarrassment and not in order to say that it is so noncontroversial that we should put it on the suspension calendar, then, no matter who is in the majority, we are violating every principle of the House, and that is the reason why the Parliamentarian and the Speaker have decided that I am in control of the time.

This system should be used only when there is no controversy. But I am not a Member of the House that runs away from controversy. Those who run away from it are those people who have the responsibility to discuss bills in the committee with hearings and bring the legislation so the American public can see what you do believe before an election.

But now you cannot even decide who is for the bill, who is for consideration, ''I want it up; I want it down.'' It is a political thing that you are using that determines the lives of people as to who fights in wars and who is exempt from wars and who should do national service.

It is a disgrace, what is going on here today, and you cannot find anyone to put the blame on. You are against your own bill. It came out of your Committee on Rules. You have the majority. But yet you need some way, some vehicle.

And just because justice does not cave in to people who are hypocritical in nature, we got the time to tell you why we support the bill and why we oppose the bill. But, unfortunately, we are doing this on the suspension calendar. The majority, I guess, will say that this is a noncontroversial issue, because if you do not admit that it is controversial, then you are saying that it should not have been on this calendar in the first place.

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

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not think there is much controversy here. Nobody is going to vote for this bill. If it were controversial, I think we would have a very close vote here. I doubt we will. In fact, I was not going to raise a point of order. I will not. I would ask the Chair rhetorical without expectation of a response, what happens when the sponsor claiming the time in support of the bill actually will vote against it? It will be interesting to see how the final tally is actually taken.

I am fascinated. I have a great deal of respect for the gentleman from New York, my fellow New Yorker, but I find it a bit amusing at best to hear him claim that the reason that this is a controversial issue is we read about it on the Internet. The only thing we read about on the Internet is what some of his colleagues are planting with respect to that.

The basis for our being here today is simply to answer the concerns of the

American people that have been created by political forces who are trying to create controversy where none should exist. The administration clearly, the Department of Defense clearly, and I suspect that at the end of this vote it will be shown the House of Representatives clearly rejects the fact, either before an election, at election or after election, that there is a need, there is a rationale, for returning to mandatory conscription by the United States military.

I would say to the gentleman from New York that he is the only sponsor of a bill in my 12 years in the House that is complaining that his bill has been brought to the floor. We have a great deal of respect for the gentleman. I suspect and I strongly believe he put together his bill with a great deal of conviction and belief, and we felt it time, given the Internet discussion and all the other absolutely baseless charges that were floating about, that this issue be put to rest, not for the issue and not for the concern of politics, but for the comfort of the American people who have been whipped into a frenzy unnecessarily about this issue.

Now some may say today that this legislation is really about the need to establish a system of national service—an attempt to instill in our youth a sense of responsibility and a clearer understanding of the sacrifices made over many years to win our freedoms—and what it takes to better secure our future. And I would say—that is a legitimate topic of discussion—an area that perhaps merits exploration.

But the clear objective of this bill—and the undeniable intent of recent claims of secret plans and post election plots is focused on a return of the draft—forced military conscription.

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

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have seen something that I have never seen in 28 years in the House of Representatives, never; someone whom I respect and consider a good friend, someone bringing a bill to the House floor that they do not support. That is news. That is the first time ever and probably in the history of the United States House of Representatives.

So I am in strong opposition to this bill. I am surprised that the Republican leadership would bring the bill to the floor. And why? Not to reinstate the draft.

The fact that the Republican leadership would bring this bill to the floor suggests to me, as an observer, several reasons: The war in Iraq is not going well. The President's plan to handle this situation with a minimum number of troops is not working, and we need more in-strength, as Paul Bremer just told us. And this tacit allegation that the administration wants to reinstate the draft right after the election. One of those three.

Americans should take notice of the fact that the House leadership thinks we need to resume the draft by bringing it up.

I have said before on occasion what Mark Twain once said, ''The more you explain it to me, the more I don't understand it.'' Why are we wasting our time, precious time, we ought to be talking about health care, be talking about the deficit, be talking about taking care of the troops. And, my goodness, I am so proud of them, and the gentleman from California (Chairman HUNTER) and I have worked so hard to try to take care of those troops with body armor, to try to take care of them with pay raises, and I know he is disappointed as well in bringing this bill up.

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And at the end of the day, Mr. Speaker, to bring this bill to the floor is nothing more than a cynical election year political ploy. If you want to play politics, go rent yourself a truck bed and get yourself a microphone and get a crowd and talk there, but this is not an electionary place. This is where we make the laws of the United States of America. And for someone to bring this bill to the floor that does not support it, does not want it, and wants to make a political point, well, I need not finish that sentence.

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

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, bringing up a bill today, nearly 2 days since it was introduced without a hearing, to anybody in any committee, nothing, to just bring it up today, 3 days before the end of the session, makes it very clear what is on the minds of the leadership in this House. This is a smoke screen to divert the focus from the real facts about the war in Iraq.

The authors of this bill want a hearing. Why do you not want a hearing? Why do you want to bring it up out of nowhere? This was not even scheduled. Yesterday, this was not scheduled or noted for scheduling.

But they do not want a hearing because they do not want the public thinking about the fact that, as of today, we have spent nearly $200 billion on this war, the United States has lost over 1,000 lives, these figures represent 90 percent of the costs of the war, and more than 90 percent of the casualties in what the President continues to paint as a global problem led by a willing coalition, when no coalition exists.

Worse, the President sends our troops into Iraq without body armor, without sufficient troop strength, and without any discernible exit strategy, and guess what? We are running out of troops. It is not a secret, I say to my colleagues. We are continuing to keep National Guardsmen in the service beyond their career. We are taking Reservists and we are running out of volunteers. So let us not be astounded that what follows that is a draft. The only problem is that we cannot announce it until after the election.

Bringing this bill up today—nearly two years since the day we introduced it—is nothing but a Republican attempt at a smokescreen to divert the focus from the real facts about the war in Iraq.

The Republicans don't want the public thinking about the fact that as of today, we've spent nearly $200 billion on this war, and the United States has lost over 1000 lives. These figures represent ninety percent of the cost of this war and more than ninety percent of the casualties—in what the President continues to paint as a global problem led by a willing coalition. No such coalition exists. Worse, President Bush sends our troops into Iraq without sufficient troop strength, and without any discernable exit strategy or plan to win the peace. The Administration doesn't want the public to know that, when it comes to Iraq, this President has failed the American people.

Even Paul Bremmer, the U.S. official who governed Iraq after the invasion, has admitted that the United States made a mistake in not deploying enough troops in Iraq, and then made a mistake in not containing the violence and looting after the ouster of Saddam Hussein.

The Administration doesn't want to call attention to the fact that the Pentagon has had to resort to the use of a ''stop loss'' policy to mask the fact that we do not have enough troops in Iraq. This policy is in a sense a military draft because it is used to keep tens of thousands of soldiers bound for Iraq and Afghanistan in their service beyond their originally scheduled discharge dates. Under this policy, the Army alone has blocked the retirements and departures of more than 40,000 soldiers, about 16,000 of them National Guard and reservists who were eligible to leave the service this year. This just shows that politics has taken priority over readiness. The administration uses these policies to meet the needs in Iraq because they are expedient and convenient, but all it amounts to is playing politics with the lives of the men and women overseas, and with their families back home.

And while the Administration likes to talk about what a good job it's doing in Iraq, it consistently fails to mention the other impending crises we will eventually have to deal with. Iraq does not scratch the surface when you consider the situation we're in with North Korea and Iran.

No, rather than have the American people focusing on these facts and statistics, the Republican members of Congress want to use this bill as a political maneuver to kill rumors that the President plans to reinstate the draft after the election. The Republicans want to use this bill—a bill that strives to bring equality to our military—to shift the focus from their extreme and devastating shortcomings.

What our bill does is address the growing disparity in socio-economic background between those who go to fight our nation's conflicts and those who send them. The statistics show that minorities and the working class segments of society constitute a disproportionate percentage of the military. African Americans represent 21 percent of the military as opposed to 13 percent of the civilian age population. Only 24 percent of the persons in

the military have parents in white collar management jobs, while that is true for 34 percent of the general military population. It is plain fact that the military does not come from the higher socio-economic status of society.

This bill deserves better than placement on the suspension calendar. It deserves serious consideration. As my colleague Mr. RANGEL has stated, we should be hearing testimony and gaining an understanding of our needs in Iraq. But as it stands, the Republicans only care about his bill to divert attention from the true fact—that the President has made a colossal error in judgment that is costing American lives every single day.

Mr. MCHUGH. Mr. Speaker, if the gentleman from Michigan feels it is inevitable, he has a chance to vote for the resumption of the draft, if that is what he wants. By the way, he said the bill was introduced 2 days ago. I suspect he misspoke. It was introduced in January of 2003.

Mr. Speaker, I am happy to yield 1½ minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, the question has been asked, why is this bill calling for a draft being offered on the floor when it is apparent that nobody on the Republican side wants it and the reason we are doing this is to expose the biggest hoax in show business. The hoax has been carried out through the Internet where millions of young people are being scared by some anonymous tipster who is claiming that somehow, there is a secret plan to reinstate the draft.

So what are we going to do? We look over at the bill and the only bill that has been offered to reinstate the draft is offered by Democrats. It is offered by the gentleman from Washington (Mr. MCDERMOTT), it is offered by the gentleman from Hawaii (Mr. ABERCROMBIE), it is offered by the gentleman from New York (Mr. RANGEL), it is offered by Democrats and not a single Republican has cosponsored it.

The President of the United States says in this message from the White House, he will veto this Democrat bill to reinstitute the draft. Mr. Rumsfeld says he will oppose this bill. He says, we are meeting our recruitment goals with both the Army and the Marine Corps, we do not need a draft, and he will oppose it; every Republican will vote against it.

The reason we are doing this is to expose this hoax of the year, which has been needlessly scaring millions of young people, driven by a bill that not a single Republican has signed onto. And let me tell my colleagues, not a single Republican in my estimation will sign onto it and the bill will not pass; and I invite the Democrats sponsoring this bill to carry out their position and vote for it tonight if they want to.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I oppose this bill to reinstate the draft, but I really want to thank the Republican leadership for bringing the bill to the floor, even though they oppose it, to highlight this administration's complete mismanagement of the war in Iraq.

Imposing a draft is not the right solution, but it is time we recognized a real problem. Our military is overstretched, overcommitted, and close to the breaking point. Last week, Paul Bremer, the former Iraqi administrator, acknowledged that we should have had more troops in Iraq to deal with the counterinsurgency which has resulted in over 1,000 Americans dead. He is only the latest to call for an increase in the size of our military.

From former Army Chief of Staff General Shinseki, whose appeal for more troops in Iraq fell on deaf ears, to General John Riggs, the head of the Army's transportation efforts, who called for an increase in end-strength beyond 10,000 troops, to the Pentagon's own Defense Science Board, which warned last week that inadequate troop size means that the United States cannot sustain current and projected global stabilization commitments, the strain on our military is increasingly obvious.

Guards and Reservists make up 40 percent of our mission in Iraq, and those who have served and survived are not able to come home because there is nobody to replace them. The Army Guard will fall short of its recruitment goal by 5,000 personnel for the first time since 1994.

I have a bill to increase the end-strength of the military, which is a responsible way to reduce the stress on the force. But instead of scheduling my bill, the leadership has scheduled a vote on the draft that they do not even support.

I urge my colleagues to reject this bill and join me in calling on the Pentagon to substantially increase the size of our voluntary military.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I want to applaud the candidness and the honesty of the chairman of the Committee on Armed Services to admit that they are using the Rules of the House of Representatives to rebut the rumors on the Internet that President Bush wants to enact a draft. I thought we did this through the Republican National Committee. This is a political thing.

It may be vicious to believe that people do not trust the President when he says no, and they do not trust Rumsfeld, and they do not trust Republicans; that is a terrible political problem, but do not use my House of Representatives to correct it. Do not use the rules of this House to correct it. This place is a place for legislation and not to play political games.

If you do not have the trust of the American people when you say there is not going to be a draft, then you had better use the Republican National Campaign Committee to rebut it. But each time you think you have to run an election on the Rules of this House, after all of us are gone, we have an obligation to those who succeed us to abide by the Rules of the House that were left to us for one purpose: not to win elections, but to legislate.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, the gentleman from New York (Mr. RANGEL) and I put this bill in in January of 2003 because we knew that not every American was at equal risk, that the wealthy would not go, and the war would be like all the others. But no one wanted to talk about it then. They buried it over in the Defense Department. We have not heard about it until this very day, on the day the Vice President is going to get up and debate tonight. We will see.

Now, why are we here today? We are here because you are afraid. You are afraid that the young people of this country are watching television. You are afraid that they do not believe the President, they do not believe Mr. Rumsfeld, they do not believe Condoleezza Rice, they do not believe anybody who tells them there is not going to be a draft, because they see what you are doing to the Guard and what you are doing to the Reserves and what you are doing to the individual Ready Reserves that you are pulling back in. They know you are not telling the truth.

Now, these kids may have funny hair and they may look odd and have rings in their nose and whatever, but they know the truth, and they are on the Internet blogs and the telephone. Every time the President denies it, the phone calls pour into our offices: When is it going to happen?

Now, we know that if Mr. Bush gets reelected and he comes up here and asks you for a draft, we have got to have more troops and we are going to do it this way or that way, you will roll over for him like butter in the hot sun. There will not be anything left of you but a puddle of butter, because you know that you will not be able to stand up to him. And the fact is that the kids have got it right, and now their parents are listening and are saying, Oh, my God, there might actually be a draft.

It would not be hard to do. Let me tell my colleagues how it works. Just announce that there are not going to be any loans for college. You can get $80,000 if you enlist, but if you are not going to enlist, you are not going to get to go to college on government money. Rich mommies and daddies will take care of their boys, but poor ones will have to go to the military.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

I am stunned by the fact that my friend from New York stands up in his beginning comments and sites the reason we have to deal with this is because the Internet is saying so, and then criticizes people that it is an Internet rumor. He seems to be very comfortable with his Presidential candidate's position of being everywhere at every time.

Also, I would just say to the gentlewoman from California, who complained about her bill and increasing end-strength, the House Committee on Armed Services which, as we will remember, has already passed a bill into the House and we are in conference with the Senate, would increase end-strength by almost 40,000 troops. So we have responded to that this year and have for the past 2 years as well. Frankly, we did not need her bill.

Mr. Speaker, I am happy to yield 1 minute to the gentleman from North Carolina (Mr. HAYES), a distinguished member of the House Committee on Armed Services.

(Mr. HAYES asked and was given permission to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, I thank the gentleman from New York (Mr. MCHUGH) for bringing this to the floor. This is, I say in all disappointment, an incredible insult to the men and women who wear the uniform. Why is it an insult? Because our men and women are the best, brightest, best trained, best equipped, most effective that the world has ever known. They are a tribute to the education process in this country and the ability of young people to stand up and serve their country.

My dear friend, the gentleman from Missouri (Mr. SKELTON), whom I admire and trust and respect, raised the point, and I think it needs to be expanded a bit.

People have gone all over this country in the beds of pickup trucks anywhere someone would stick a microphone in their face, and the minority political operatives have used it as an opportunity not just to scare youngsters, but to scare moms and dads and grandparents about something that does not exist.

Mr. Speaker, we can do better. Support the bipartisan effort to increase our ROTC on college and high school campuses. Let us honor the young men and women who are fighting for us today with a degree of skill, accuracy, and commitment that we have never seen.

Mr. Speaker, today we bring to the floor a matter of great importance to our troops, and an issue about which there has been much misinformation. The legislation before us, H.R. 163, would essentially reinstate the draft, requiring all young persons, including women, to perform a period of military service.

Those who are in favor of this legislation declare the draft is necessary for two reasons. They argue that recruiting and retention of our armed forces are falling at alarming rates and they asset that the military is disproportionately comprised of poorly-educated individuals.

This is one of the greatest insults to our military I have ever heard. Today our armed forces are the most professional, best educated, most integrated and best trained in the world. All one needs to do is spend a few moments with our troops. Yesterday I was at Ft. Bragg in my district in NC. Talking with service members, is one of the most motivational things I ever experienced. These soldiers, often youngsters, are skilled, well-trained, articulate, intelligent, dedicated to their country, and model citizens. They endure hardships and sacrifice because they want to serve. Let me repeat: they want to serve. They are patriots who want to contribute to their country and serve their nation. They are proud of their service and we as a grateful nation should express nothing other than gratitude and praise for what they do. Our military today is not a repository for poor kids with little education and few opportunities in life. The U.S. military didn't get to be the most technically advanced fighting force in the world by relying on a collection of high school dropouts and underachievers.

Simply stated, we have the finest and most professional military in the world. To suggest otherwise and argue that we need a draft to bring educated, skilled people into the military, is one of the most degrading insults to our troops that I have ever heard and furthermore is true not true.

Secondly, I would like to point out that even though tours have been long, many sacrifices have been made and our troops have been called on for extraordinary missions, recruiting and retention is going well for all 5 services. Retention for the active component is over 100 percent and reserve retention rates are at 99 percent.

The recent call for additional combat capability in Iraq and Afghanistan to conduct the global war on terror has fueled misconceptions that the United States will need to reinstate the draft to perform its military missions. There is only one reason that would justify conscription: if the military were unable to recruit enough volunteers to meet its personnel needs. This is not the case. Needed military personnel strength increases can be achieved through the existing recruitment and retention system. We should increase ROTC on high school and college campuses to highlight the high tech careers available through our military and further enhance our already successful recruitment efforts. No one in the Administration, at the Department of Defense, or at the Selective Service System has advocated for the reinstatement of the draft in any form.

Mr. Speaker, the bill before us today is poor public policy, and pure politics and a disgrace to our troops. The all-volunteer force established the best and most professional military in the world. Our troops are disciplined, resilient and experienced, prosecuting the Global War on Terrorism and numerous other missions since 1973 with valor, bravery and honor. Continuing to uphold the high standards our military personnel embody everyday is only achieved through a voluntary force. I urge my colleagues to honor those who have individually decided to serve their country and vote against this election year legislation.

Mr. SKELTON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New York (Mr. OWENS).

(Mr. OWENS asked and was given permission to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, I rise in opposition to the bill.

Mr. OWENS. Mr. Speaker, it is insulting and disgusting for the Republican Majority to make a joke of serious war and peace policy by bringing draft legislation to the floor as a frivolous matter, as a joke.

Every member of the House who is against the draft should join me as a co-sponsor of H.R. 4746, the Selective Service Registration Termination Act. The attached "Dear Colleague" letter of June 25, 2004 provides a fuller explanation of H.R. 4746

This bill proposes the termination of the selective service registration system which requires that all eighteen-year-old males register. This lost component of the system maintains a large manpower pool readily available for the quick implementation of a draft. This bill takes away the draft option and guarantees that future policy makers must confine their adventures to actions which can be launched and maintained with only a volunteer military force.

H.R. 4746 clearly indicates that in the case of a full declaration of war by the Congress of the United States the Selective Service System may be reinstituted. Only as a last resort should a war be declared and mandatory proscription be authorized.

In the case of a draft there must be no exemptions for the rich and the powerful. If a draft is implemented the rich and powerful should go first. Attached is a statement from the CONGRESSIONAL RECORD submitted on July 16, 2003 which expresses the conviction which must guide any future draft: Let the rich go first.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Jun. 25, 2004.

WORKING FAMILIES NEED JOBS, NOT GUNS AND UNIFORMS—WE MUST TERMINATE SELECTIVE SERVICE REGISTRATION

DEAR COLLEAGUE: I have introduced the "Selective Service Registration Termination Act" (H.R. 4746) in order to dismantle the machinery of a draft which would suck American youth deeper into the quagmire of the Iraq War and also provide manpower for new preemptive wars. Our nation is at a pivotal point with respect to the use of military force to protect our vital interests around the world. The worship of the false god of war would be lessened if we take clear and careful steps to reduce the pool of potential combat troops. Continuing a volunteer army policy will provide a strong restraint and check on new violent adventures.

Every presidential candidate must be made to pledge that there will be no implementation of a draft after the election. Working families need jobs, not guns and uniforms. Preparations for a draft are presently an underground, covert, ghost operation as we move toward election day; however, there are distinct actions which point the way to a future sudden "common sense" announcement that the machinery of the draft must be reactivated. Please note that the Senate recently authorized a twenty thousand soldier increase for the Department of Defense. All experts have agreed that unless circumstances change the size of the occupying army in Iraq must be greatly increased. Instead of the creation of a vast new pool of cannon fodder, we must insist that "the circumstances must be changed."

"Shock and Awe" invasions must not continue to be an alternative for the unilateral

confrontation of enemies in the war against terrorists. The machinery of diplomacy; a world wide network of coordinated intelligence; and the maintenance of the capacity to execute swift, targeted actions must replace the obsolete and costly total war strategy. Ending the draft system is the most practical step available to use to force the end of reckless war as an alternative.

Working families need jobs, not guns and uniforms. Support a giant step toward lasting peace. Please join me by cosponsoring H.R. 4746 by contacting Larry J. Walker at 225–6231.

Sincerely,

MAJOR R. OWENS,
Member of Congress.

Mr. Speaker, the July 10th vote to allow the expenditure of funds to implement radical changes in the overtime provisions of the Wage and Hour Act was an outrageous and devastating attack on working families. Compounding the horror of this action is the recent announcement that our present compliment of soldiers in Iraq, ninety percent of whom come from working families, will be forced into combat overtime for the indefinite future. Not even the one year rotation rule of Viet Nam will be applied to relieve their long ordeal under extreme heat and guerilla warfare duress.

Overtime in the dangerous defense of the nation is being mandated without controls while at the same time overtime wages to feed working families is being subjected to new schemes which reduce take-home pay. This is an unacceptable continuation of the gross exploitation and oppression of working families by the Republican Scrooges who presently dominate the Congress and the White House. This nation faces a tragic predicament: An elite group of juvenile old men have plunged us into a war where great suffering and pain is being inflicted on working families who bear the brunt of the casualties on the front lines as well as the fallout from economic dislocations and recession here at home.

It appears that the Republican well-to-do decision makers have great contempt for those who do the dangerous and dirty work for our nation. All Americans must remember the debt we owe to those who risk their last full measure of devotion. Or perhaps the powerful and the rich should go to the front lines first. The RAP poem below is a summary of my indignation on this critical action:

LET THE RICH GO FIRST

Working Families
Keep your soldiers at home,
For overtime in Iraq
No cash
No comp time
Not even gratitude,
Republicans intrude
To exempt all heroes,
No combat rotation
Life on indefinite probation
Scrooges running the nation.
To the front lines
Let the rich go first—
For blood they got a thirst,
Let the superstars drink it
In the glorious trenches;
Leave the disadvantaged on the benches.
Working Families
Let the rich go first:
The battlegrounds they always choose
Their estates have the most to lose;
Send highest IQs to
Take positions at the front,
Let them perform their best
High tech warfare stunt;
Working Families
Keep your malnourished sons home—
Harvard Yale kids should roam
The world with guns and tanks,
Reserve gold medals
For the loyal Ivy League ranks.
O say can you see
Millionaire graduates
Dying for you and me?
Welfare Moms
Have a message for the masters:
Tell Uncle Sam
His TANF pennies he can keep
For food stamps we refuse to leap
Through your hoops like beasts;
Promise to leave our soldier alone
And we'll find our own feasts.
To Uncle Sam we offer a bargain—
Don's throw us dirty crumbs
Don't treat us like bums
And then demand
The full measure of devotion;
Our minds are now in motion
Class warfare
Is not such a bad notion;
Your swindle will not last
Recruiters we won't let pass,
Finally, we opened our eyes—
Each family is a private enterprise.
Each child a precious prize;
We got American property rights,
Before our children die in war
This time we'll choose the fights.
Let the rich go first:
They worry about
The overtime we abuse;
The battlefields they always choose
Their estates have the most to lose.
Let the rich go first!

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I think this debate is pointing out something very important: This is a rich man's war and it is a poor man's fight. We have some of the finest young people in the world over there in the Mideast that are dying, better than 1,000 of them, and better than 8,000 have been wounded; but about 20,000 have had to be MedEvac'd out of there because of injuries and things of that kind.

□ 1830

We do not have enough troops in the field to prevail. We had enough to win a war, but we do not have enough to win the peace, and we do not have enough people to police and to control a situation which is getting worse and worse and worse.

The question is, if you are not going to have a draft, and I am not going to sport legislation, but how do you propose over here to get our people the troops that they need, to get the levels of force that they need to win? It is easy to stand around here and talk about, oh, how we must support our troops, it sounds very patriotic. But let us get some people over there. Let us get the necessary levels of force. Let us get the equipment that we need over there for our people.

I would note, there is not enough equipment like body armor. There is not enough armor for the Humvees. Our people are dying in good part because of this, and they are dying in good part because there are not enough of them to properly address the problem of a clever and well-managed insurgency which is killing thousands of young Americans.

I say that we are going to have to have a national debate on this. I commend the gentleman from New York (Mr. RANGEL) for having forced this issue to the House floor. I say, rather than making political points on this, my Republican colleagues should start to address something more important: Address how you are going to win; address how you are going to get the number of troops; address how you are going to produce the levels of force that are going to enable us to win, to get our people home safely and to carry out our real duty to the American people.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, well, I just want to echo the dean, and I want to congratulate the gentleman from New York (Mr. RANGEL) for his courage.

Frankly, let me say to my colleagues on the floor of the House, there is a secret plan for the draft. And there is nothing, there is nothing that this debate will do to dispense with that rule more and that secret plan. Let me tell you why. Because you have got 1,000-plus dying. You have 7,000-plus that are already wounded. You have the highest number of AWOL persons who are not returning. You have soldiers doing 24-hour duty. And I realize that, when you are in combat, you are at the subject of your commanders, but you are doing a 24-hour duty, and people are frustrated and tired and overwhelmed. You have people who cannot get medicine. And you have individuals who are National Guard and who are Reservists who are away from their families and are being told, just 2 more months, just 6 more months.

Mr. Speaker, this debate is imperative to those who are listening. To the young people, I am voting no. But this was a protest to say to the President and the administration in January of 2003 when this war was raging, what is your exit strategy? What is your strategy to win the peace?

We have none.

Secretary Rumsfeld can make a joke and talk about surprise all he wants. That is not befitting of a Secretary of Defense. The military brass have indicated they need more soldiers, and it is true they come from the inner cities and rural communities. My voice may be a little raspy, but these children went into this war because they wanted an education. That is what Jessica Lynch wanted. That is what so many wanted. That does not undermine their patriotism or their heroism or our honor to them or the ones that died; they died in vain. But this is a debate

to pull the covers from those who want to hide from the fact that they need a draft.

What you need to do is not send our troops into misdirected and ill-directed wars. Then we will not have to have this debate. I will vote a resounding ''no,'' but there is a secret plan for a draft.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentlewoman's comments, and it proves perfectly why we are here tonight because that is what the message is the American people are listening to, what the gentlewoman just said. And there is one way to dispel this, and that is to defeat this. No President can impose a draft without the consent and the approval of the United States House of Representatives. It will not come tonight or at any other time.

Mr. Speaker, I yield 10 seconds to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, sometimes, not always, but sometimes a bill comes to the floor of this House after a long deliberative examination of the facts surrounding a difficult issue with compelling arguments on both sides, and we can all come together and find common ground. Sometimes a bill is the result of hard-nosed political wrangling, and a party-line vote pushes a controversial measure over the finish line.

And sometimes, Mr. Speaker, on rare occasions like today, a bill is considered on the floor of the House as a practical exercise, to expose a fraud. For months now, the American people have been subjected to and had their intelligence insulted by a manipulative, dishonest and willful campaign of misinformation. This campaign, which started as a whisper and now is being supported on the floor of the House, but it has since been given voice by the leading Democrats in the country today, asserts without any evidence whatsoever that there is a secret Republican plan to reinstitute the military draft.

This campaign is a baseless and malevolent concoction of the Democratic Party, and everyone in this chamber knows it. It has one purpose and one purpose only, and that is to spread fear, to spread fear among an unsuspecting public, to undermine the war on terror, to undermine our troops, to undermine our cause and, most of all, to undermine our commander-in-chief in an election year.

Well, Mr. Speaker, it is a lie. And to prove it, all we had to do was to look in the CONGRESSIONAL RECORD. And lo and behold there it was, a plan. Not secret, but public. Not hidden by Republicans but openly touted by Democrats, H.R. 163, before us today. H.R. 163 is not the product of a Pentagon cabal, but it is sponsored by six of the most liberal and vociferous critics of the war on terror.

The vote on this bill will not be close, and it will not be a party line. Instead, it will be an opportunity for Americans to see who takes the national security of the United States seriously, who respects our armed forces, who wants to win the war on terror, and who just wants to win the next election.

This bill is a fraud, and so is the pernicious campaign of deception that has brought it to the floor today. I urge all my colleagues to vote no and expose to the light of truth the craven partisan whisper campaign now poisoning the national debate.

Mr. SKELTON. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. OSE). The gentleman from Missouri (Mr. SKELTON) has 3½ minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. RYAN).

(Mr. RYAN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in opposition of this bill, but I would like to clarify something. We are not trying to scare kids. This President's foreign policy is what is scaring the kids of this country. And people have said today, why are people believing this? Why are people believing this big Internet hoax?

It is the same people who told us that Saddam Hussein had something to do with 9/11; the same people who told us Saddam Hussein had something to do with weapons of mass destruction; the same people who told us we would be able to use the oil for reconstruction money; the same people who told us we would be greeted as liberators, not occupiers; the same people, the same President who told us the Taliban is gone; the same President who told us that Poland is our ally 2 days before they pull out; the same President who tells us Iraq is going just great; the same President who tells us the economy is going just great; the same people who told us the tax cuts were going to create millions of jobs; the same people who told us that the Medicare program only cost $400 billion when it really cost $540 billion.

So please forgive us for believing what you are saying. Please forgive the students of this country for not believing what you are saying. Not one thing, not one thing about this war that has been told to the American people or that has been told to these college students has been true. Not one thing. Bremer says we need more troops. The Pentagon says we need more troops, and this President cannot get them from the international community. There is only one option left. Let us be honest with the American people.

Mr. RANGEL. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 9 minutes remaining. The gentleman from New York (Mr. MCHUGH) has 4½ minutes remaining. The gentleman from Missouri (Mr. SKELTON) has 2 minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania (Mr. MURTHA) who is an outstanding member of this House of Representatives, and he is in support of this bill.

Mr. MURTHA. Mr. Speaker, I hate to rise in opposition to both leaderships on both sides of the aisle. I am probably the only one that is going to vote for a draft. I believe we have to start looking at this right now. And I will tell you why it is a serious problem. We have 135,000 troops in Iraq right now. We are going to have to have 135,000 there for at least 2 years. We are training people, the Iraqis about 4,000 a month, and a lot of them are deserting. So there is no way that we have had cooperation with the international community. There is no way we are going to be able to do the fourth round of replacement without some kind of a draft.

Now, I remember the President of the United States asking to extend the National Guard in 1941, just a few months before the attack on Pearl Harbor. He extended it by one vote, and this is serious business here. We can get up and talk politics, we can get up and blame each other for what we are involved in here, but we have to have the personnel to do this job.

I go out to the hospitals every week, and I see these young people who are in their second and third tours in Iraq. I see them without legs and without arms, and I know how hard this is.

Now, let me tell you, on the street that I lived on when I was a kid, four people in my family, my father and three of his brothers, were involved in World War II. Some of them were drafted, and some of them were volunteers. And in the next house, there were seven from the same family. In the next house from that, there were six from the same family that went into World War II. Now, they went; some drafted, and some not drafted. We had 15 million people. We are in a war. And not only a small segment of the population should fight in that war.

I voted against the volunteer army in the first place because I said that I did not believe that, if we got into a crucial situation, we would be able to sustain our national security. This is a national security problem. This is something we have to face now.

I remember standing right over here when Jack Kemp was a Member, and he did not want to vote to extend registration because he believed it was not necessary. I said, Jack, we have to be prepared here. We have to be prepared in case something happens.

They have advertisements for the volunteer army, and they say, we want you to come in. We want you to get an education. We want you to better yourselves. We want you to come in, and you will have a steady job, and an

awful lot of people joined the military with that in mind.

I was talking to a father the other day. He said his father was in World War II. His uncle was in the Battle of the Bulge, and another uncle served in the Pacific. And he was in the Reserves, and his boy was just killed in Iraq. And he was so worried because they were sending people back for the second and third time.

I mean, we have got people in the National Guard who they have stopped letting out. His son was supposed to come home in August, and he was killed.

Now, that is the kind of thing we are facing. This should not only be borne by people who are volunteering because they could not find a job. This is something that every one of us across the board, rich and poor, everyone should be willing to serve in the armed services of the United States.

□ 1845

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I would like to associate myself with the remarks of the gentleman and support his position.

Mr. MURTHA. Mr. Speaker, I would hope that we would take this seriously. I would hope that we would not get into a political debate about whether this is politics or not. I would hope we would look ahead.

What I said before, my colleagues have got to remember we have got 135,000 troops on the ground. We have sent some of these people back a couple of times. The Army is looking at the possibility of having a 6-month tour, and that will not help the situation because they are going to have to send them back sooner. Some of the people who are supposed to be home for a year are unable to stay home for a year.

I remember being in Europe talking to General Jones, and they extended the 1st Infantry Division. He was worried that the families, because they extended them, how many people would be killed and what a pressure that would put on the families. All of us worry about that. All of us have to worry about that. That is our job, and we have to look ahead.

We cannot just look ahead to the election. We have got to look ahead after the election at what it is going to mean to our troops.

I think that we make a mistake when we get up here and accuse each other when we are in a war. When we were in a war in World War II, we were attacked here, and everybody ought to be willing to serve. I mean, a draft is a fair way to cut, no deferments for anybody. We pick it by lottery; we take the number of people we need and send it down to the Armed Forces.

Let me tell my colleagues something. They are already taking category fours, and I think that is good for the country. I think it is good because the best training people will get in the world today is the military training. They will take category fours, and they will make those people into good citizens. They will work them, and the Army does not like it. The military does not like category fours because it is too much time to train those people.

Let me tell my colleagues something. All of us need everybody to go into the Armed Forces. From every level, from the rich and the poor, from the middle class, everybody needs to go, and we have to, and there is no question about it. If we are going to be there, if what the leaders on both sides are saying, both candidates are saying, we are going to be there. We are not going to leave there until the Iraqis can take over. They cannot take over overnight. It is going to take time to train those people; and if we are going to train those people, we have got to have somebody in the United States who can replace them.

It takes us a year to train. The gentleman from California (Mr. LEWIS), the chairman, and I put in the money for the extra 30,000 people because we knew they needed 30,000 people this year. I asked the personnel guy, are you going to ask for this in the budget this year? He said, no, sir, we are going to expect a supplemental to take care of it.

The point is, we needed an extra 30,000 people. We have got to face that we are in a war, and we have got to face that everybody should be bearing the burden of this war, not just the few volunteers that are time after time sacrificing and the young people are being so mangled by this war. Their spirit aside, they are doing a marvelous job and are so proud.

When I go out to the hospital every week, Bethesda one week and Walter Reed the next week, and I see these young people, and even then the fighting is so intense that they are saying to me, this is a tough war, Congressman, and we need help, we need support; and we are giving them support. In this Congress, we are giving them everything they need except we are not looking ahead to the very thing that we are going to need down the road and that is additional troops, and we are not meeting the requirement of the National Guard, and that is the first step.

So I would ask Members to reconsider this, and I would hope that a number of us would vote for a draft as a serious business rather than talking of politics and the whole thing.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

There are few people I have more respect for than the gentleman from Pennsylvania. He made a very eloquent argument, very correctly, for an increase in end strength, not to a return of the draft and for the problems that that would create.

We have an end strength increase of 40,000 in our bill in the House that has passed, and there is a conference with the Senate. Those are the people we need, and we should move on that and not a draft.

Mr. Speaker, I yield 30 seconds to the gentleman from South Carolina (Mr. WILSON), a distinguished member of the Committee on Armed Services.

(Mr. WILSON of South Carolina asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. WILSON of South Carolina. Mr. Speaker, the bill we are voting on today has been used by Democrats to scare young voters and their parents with the lie of an impending draft.

As a retired veteran of 31 years' service in the Army National Guard, with three sons serving today in the military, including one serving in Iraq, I agree with the Newsweek magazine expose of October 12 which discredits the rumor has having no basis in fact. Crying wolf about the need for a draft causes doubt about the ability of our Armed Forces and hurts our morale and recruitment.

I urge all of my colleagues to vote against H.R. 163 and end this false rumor.

Mr. Speaker, the bill we are voting on today has been used by Democrats to scare young voters and their parents with the lie of an impending draft.

In South Carolina, the Democratic Party sent out a despicable campaign letter, disguised as a draft notice. The Democratic Presidential Candidate John Kerry speaks disingenuously about a ''back door draft.'' He has said to elect him President because he ''will give us a foreign policy that absolutely makes it unnecessary to have a draft.'' Democrats' false rhetoric has helped fuel a nationwide scare campaign.

As a retired veteran of 31 years service in the Army National Guard, and with three sons today in the military, one of whom is serving in Iraq, I agree with the Newsweek magazine's exposé (Oct. 12th) which discredited the rumors as having no basis in fact. Crying wolf about the need for a draft causes doubt about the ability of our Armed Forces, and hurts our morale and recruitment.

Let's be clear. The all-volunteer American military is succeeding in the War on Terror, and retention remains high. We have the best-trained, best-equipped, most competent military in history. We have a new greatest generation that I have visited three times in Iraq who are dedicated patriots protecting American families by taking the war to the terrorists. There is absolutely no need for a draft. Not one person in the executive branch supports or has talked about reinstating the draft.

Clearly, by resorting to the politics of fear, KERRY and the Democrats have no positive agenda for America. Americans deserve more. President Bush and Republicans have a proud record of achievement in the last 4 years: of tax relief, better education for our children, improved health care through prescription drug coverage, and a strong national defense against terrorism.

I urge all of my colleagues to vote against H.R. 163, and end this false rumor.

[From Newsweek, Oct. 11, 2004]

THE DRAFT: RUMORS, AND THAT'S ALL THEY ARE

For months, Democratic operatives have muttered that news about a revived military

draft could become the silver bullet that stops President George W. Bush's re-election campaign. But the White House and Pentagon emphatically deny any intention to reinstitute conscription: in the first presidential debate last week, Bush made sure to include a reference in his closing remarks to the ''all-volunteer Army.''

Democratic presidential contender John Kerry carefully limited his debate remarks to a factually supportable charge that current Bush policies may constitute a ''backdoor draft'' because some soldiers' tours of duty are being involuntarily extended. But some Kerry supporters—and prominent Kerry surrogates—are spreading more alarming rumors about a reinstated draft. ''You do not have the draft hanging over your heads—not yet. But pay attention, boys and girls, to what you've got going on in Iraq,'' disabled Vietnam vet and former U.S. Senator Max Cleland, an important Kerry backer, recently told a student audience. At the University of Colorado-Boulder last week, cafeteria tables were littered with cards signed by self-described Students for Kerry, warning YOU'RE GONNA GET DRAFTED. (In an ''open letter'' to America's students, independent candidate Ralph Nader recently claimed the ''machinery for drafting a new genration of young Americans is being quietly put into place.'') The most explicit claims about a Bush plan to revive conscription have come from onetime Kerry rival Howard Dean, who charged in a recent newspaper column that draft boards ''have already been notified that 20-year-olds and medical personnel will be called up first.'' Laura Gross, Dean's spokeswoman, says Dean spoke with two draft-board officials in different parts of the country who told him they had been ''put on notice there is going to be a draft . . . Bush has not denied that there's going to be a draft.''

Rumors about a new draft were sparked when a Pentagon Web site earlier this year posted a solicitation for volunteers to man local draft boards. But officials say the ad has appeared every year since 2001, and didn't signal a plan to reactivate the draft. Two bills in Congress propose reviving conscription, but both were introduced by anti-Iraq-war Democrats to highlight the fact that the burden of military service falls disproportionally on poor people. The bills have no chance of approval. Selective Service spokesman Dan Amon says he has fielded ''hundreds'' of calls about the possibility of a renewed draft, which he calls an ''urban legend . . . If the White House is planning a draft, you'd think they might have told us about it.'' The uniformed military are among the last people who want to see the draft revived. While U.S. forces are stretched by current commitments—including Iraq—Army leaders don't want a draft, don't think they need one and recognize that, politically, it would be virtually impossible. Two-year waves of unwilling, unskilled soldiers would contribute little except, the brass fear, the same discipline problems the Army spent years purging after Vietnam. Army lobby spokesman John Grady says: ''Nobody wants to go there again.''

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I want my constituents to know that Congress is not going to legislate a draft today, but I also want to ask my constituents and all Americans to read between the lines.

What is going on here today? What they are seeing is an admission of this administration's failure to adequately plan for our troops in Iraq. What they are seeing is a bait and switch.

On the one hand, Americans are being told today that they do not need to worry about a draft, and believe me, this was an issue that if my colleagues would have left it alone, it would have died on the Internet. But on the other hand, I am afraid that Americans will think that they are being told there is nothing to worry about in Iraq.

What we are seeing is a very controversial matter being brought up before Congress by using a procedure that is meant for noncontroversial items.

I want to acknowledge how much military servicemembers' contributions have meant to Americans through their voluntary and selfless service. And how do we honor them? Well, we honor the profound and valiant successes by keeping our forces strong.

The solution to our overburdened military lies in expanding the all-volunteer force; and this solution, as it has been stated, has been voted on and passed by both Chambers of the Congress. It provides a much-needed increase in military end strength, and as a member of the Committee on Armed Services, I have worked hard to provide the solution.

I feel strongly, and I know that most of the people here do, that everyone benefits from keeping an all-volunteer force. So I urge my colleagues to stand firm with this conviction, but I also say let us have a serious discussion. Let us not make this political.

Mr. SKELTON. Mr. Speaker, may I ask what time is allotted for each Member.

The SPEAKER pro tempore (Mr. OSE). The gentleman from New York (Mr. RANGEL) has 2 minutes remaining. The gentleman from New York (Mr. MCHUGH) has 3¾ minutes remaining, and the gentleman from Missouri (Mr. SKELTON) has 30 seconds remaining.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I oppose the draft, and I understand the reason why we are having this debate.

What I do not understand is when are we going to have the debate about the flawed intelligence that led up to the war. When are we going to have the debate about the disregard of the recommendation of General Shinseki and now Ambassador Bremer? When are we going to have a debate about a failure of international negotiations to bring more coalition partners in?

This is a worthy debate, but it is not worthy of the sacrifice that these men and women are making around the world. Let us have a real debate about the real issues that confront us in Iraq.

Mr. MCHUGH. Mr. Speaker, perhaps the gentleman's heard of the 9/11 Commission.

I am happy to yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), a distinguished member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, Military Time, 72 percent of the military, active, Guard, Reserves, are going to vote for President George W. Bush, not JOHN KERRY.

Why we are here today is there has been a ruse before the American public. Some people thought they would scare people into thinking the President was going to reinstitute the draft. You have been caught in your own trap. That is the reason we are here today is to show the American people that it is a spoof.

When you talk about politics, you are the ones that put forth politics, and the gentleman from Pennsylvania (Mr. MURTHA), you how I love you, and when you talk about politics on this floor, you need to take a look within your own party.

It was your leadership that voted against the money to give our troops the support that they need. It was JOHN KERRY that voted against the money to support our troops. You know that, and you are caught here today trying to spoof the American people; and shame on you, shame on you and shame on you.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. RANGEL. Mr. Speaker, are we allowed to use the floor of the House to campaign and specifically name the Presidential candidate that we are supporting?

Did I frame my question correctly?

The SPEAKER pro tempore. Members may refer to Senators who are nominated candidates for the office of President. But the gentleman from California is admonished to direct his remarks to the Chair.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I yield myself the balance of the time.

I mentioned earlier that this is a moment in history when someone brings a bill to the floor that does not support the bill. In my years here in the House of Representatives, I have never seen that.

I think it is also historic for another reason, that this piece of legislation was brought to the floor to quell a rumor. That, I am sure the history books will never reflect, never reflect the fact that legislation was brought to the floor to quell a rumor.

Mr. RANGEL. Mr. Speaker, I would like to close, and so if I only have 1 minute remaining, I reserve it.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 1½ minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. SMITH).

(Mr. SMITH of Michigan asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, the reason we are here is to make clear to the world that we are not going to have military conscription right now for active military duty.

I introduced a bill last year, H.R. 3598, because I think we need to seriously discuss the understanding of the military of a greater number of our population. I think we need to look at volunteerism in this country; and with terrorism threatening us for the immediate future, there is a need for that education, that training, maybe even basic military training, but not combat service.

Mr. MCHUGH. Mr. Speaker, I am happy to yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me time.

We are here for three reasons. Number one, because the gentleman from New York (Mr. RANGEL) has proposed reinstating the draft. It is a legitimate piece of legislation. The gentleman from Pennsylvania (Mr. MURTHA) has given an articulate reason that we should consider it, and it is legitimate to consider it.

But the other reason why we are pulling it out at this time is because of pieces like this that were sent out by the South Carolina Democratic Party, as well as a number of things that went out on the Internet, saying to college kids like my 19-year-old son John and my 21-year-old daughter Betsy that there is going to be a draft and there is a secret plan.

The gentlewoman from Texas (Ms. JACKSON-LEE) has already stated there is a secret plan. We are voting ''no'' to show there is no secret plan and also ask our colleagues on the floor to talk to their Democrat friends and tell them not to send out propaganda pieces like this, because it is just a lie.

The SPEAKER pro tempore. Who yields time? The gentleman from New York (Mr. RANGEL) has the right to close.

Mr. MCHUGH. Mr. Speaker, I yield 30 seconds to the gentleman from Arizona (Mr. HAYWORTH).

(Mr. HAYWORTH asked and was given permission to revise and extend his remarks.)

□ 1900

Mr. HAYWORTH. Mr. Speaker, I rise against the legislation, and I read the words of a young Arizonan now at war from the pages of the Arizona Republic, a letter. He writes, ''As I sit on this plane taking us to war, I can't help but think about who is with me. Americans from all walks of life are going to war together on this plane. Americans going to war on this plane are ages 18 to 59. Americans going to war on this plane are rich and poor, Americans on this plane joined for different reasons. All are volunteers.''

It is a strength to have a volunteer fighting force. We rise remembering the words of Captain Moore, ''We have a great volunteer force.''

Mr. MCHUGH. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Indiana (Mr. BUYER), a veteran of the first Gulf War.

(Mr. BUYER asked and was given permission to revise and extend his remarks.)

Mr. BUYER. Mr. Speaker, I rise in strong opposition to the bill. I also join the gentleman from Missouri (Mr. SKELTON) and regret that the heat of national elections has caused us to debate something that is not going to happen.

We are here because it was JOHN KERRY who implied that President Bush would reinstate the draft, and it was CBS News and its anchor, Dan Rather, who have chosen to keep telling the ''big lie,'' as noted in the editorial of Investors Business Daily.

Fortunately, I believe Americans will know better. President Bush has not said he will reinstate the draft. There is good reason Americans are tuning out CBS News and will tune out this bill. Vote ''no'' on the draft.

Mr. MCHUGH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. SAXTON), a senior member of the Committee on Armed Services.

Mr. SAXTON. Mr. Speaker, I would like to use the short time I have to close our side of the debate by pointing out some facts.

It has been contended by the other side that we are having trouble attracting and retaining people in the armed services. The facts do not bear that out. In fact, they point just the other way.

Last year, for example, the Army attracted 74,000 new soldiers. That was 100 percent of the goal set. Furthermore, the Army and Army Reserve retention goal for fiscal year 2004 is 28,201. As of June of 2004, with 3 months left in the fiscal year, the active Army had achieved 98 percent of its year-to-date retention goal, the Army Reserve had achieved 96 percent of its goal, and the National Guard had exceeded its goal by 30 percent.

Furthermore, Mr. Speaker, new weapons systems that we have today require manpower but they also require brain power. It takes time to cultivate competent soldiers and Marines, and by drafting our soldiers we slide down the scale of our professional Army towards a more amateur and, I contend, less effective military.

Let us all vote to oppose the draft today.

Mr. MCHUGH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, very simply, this is a bill that is necessary to be dealt with in what I agree is perhaps an unconventional way, but nevertheless has caused great anxiety, great fear and concern amongst mothers, fathers, and children. This is a way to put the fear aside. That should be a primary duty of the House of Representatives. And, as I suspect even the proponents will, a ''no'' vote is the right vote.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

My Republican colleagues have convinced me they will not vote for a draft before this election, and I appreciate their sincerity in stating that. But I support my bill for the very reasons that the gentleman from Pennsylvania (Mr. MURTHA) has done so.

If the issue is the protection of our country against an enemy, then all Americans should have the opportunity to fight and defend for all our freedom so that we can sit here. And there should be a plea for the rich and the poor, which is so eloquently stated but not followed, to be volunteering and joining and having the honor to say they defended our country at a time of war.

Mr. Speaker, that is not going to happen before the election, and because of my 34 years in the House and my respect for the rules, as much as I appreciate the fact that the leadership has brought my bill up, even though they did not support it, they have brought my bill up because they have a problem with the President's integrity on this issue.

So as much as I appreciate that, what I appreciate more are the standing committees that we have in this House, and so I would hope that my bill will be referred to the committee process for hearings so that the entire House of Representatives would understand the necessity for this legislation.

But on this I will vote ''no''.

Mr. STARK. Mr. Speaker, I am an original cosponsor of the Universal Service Act and rise in support of this bill.

That being said, this vote today is a cynical political ploy. The Republican Leadership did not bring this vitally important issue forward to have a meaningful debate. They did it to buy themselves political cover from accusations that President Bush's failed policy in Iraq will necessitate a new military draft.

I object to this cynical misappropriation of our democratic responsibilities by the Republicans. We are here to do the people's business, not dispose of it thoughtlessly for mere political gain.

I am a cosponsor of the Universal Service Act. I support reinstating the draft, not because it is popular, but because I believe it is right.

Many of us remember World War II. That was a war fought by Americans of every stripe and every background. It didn't matter if you were rich or poor or the color of your skin. All Americans sacrificed and shared the responsibility for winning that war. It was everyone's patriotic duty and our country was better for it.

Today armed forces ought to strive to meet that example. Reinstating a draft with no deferments and no exceptions is both fair and democratic. It will mean that Americans of every background will serve our country, not just the poor and disadvantaged as it is today. It will mean that our troops, reservists and members of the Guard won't be forced into extended deployments well after their tours are up.

Ultimately, I would hope that a draft will deter future wars of convenience like that in Iraq. I'm sure many parents—and Members of

Congress—will think twice about supporting a war if they know their children may be called to fight.

This, of course, is not being genuinely debated here today. Instead this is a political charade that demeans the importance of this issue.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 163, the ''Universal National Service Act of 2003.'' This legislation is being brought to the Floor by the Majority without holding any hearings which would provide for the necessary debate an issue this magnitude requires.

There is no doubt that the military is currently overextended worldwide. National Guard members and Reservists have been sent overseas for extended missions, leaving their families behind. While we are eternally grateful to them and all the members of the U.S. military for their bravery, I am sad to say that when they return home, they will discover that this Administration has cut many critical veterans' benefits. The Department of Veterans Affairs and the health care system it oversees are not prepared for the numbers of new veterans who will need long-term care for their injuries. This Nation's veterans deserve nothing less than the benefits to which they are entitled.

I think we can all agree that a strong military is critical to our Nation's defense. However, I think that we can accomplish this goal by ensuring that those who are currently serving have the necessary equipment and resources to complete their missions and the benefits that they and their families deserve. If we need to increase the size of the military, there are ways to do it other than through a draft.

I hope that when we consider these issues in the future, the Majority will be more respectful of our service men and women.

Mr. SCHIFF. Mr. Speaker, I rise in strong opposition to H.R. 163. I do not believe that a reinstatement of the draft is necessary or desirable; nor do I believe that there is any support for a draft among my constituents or in the country as a whole.

This Nation has had an all-volunteer military for more than 30 years and the quality of America's service men and women, their dedication, professionalism and commitment has never been greater. Public support for our men and women in uniform is also much higher than it was in the later years of the draft.

Today's soldiers typically stay in the military 2 years longer than their predecessors did in the early 1970s. This reduced turnover has resulted in a more professional force that is able to take full advantage of the high-tech weaponry that is a key component of our military. The volunteer military's lower turnover rate has also led to a reduction in training costs. In 1988, a General Accounting Office study found that the all-volunteer force was cheaper than a conscript force by $2.5 billion per year—more than $4 billion in today's dollars.

Volunteers are more likely to seek promotion, and are likely to be more professionally motivated than draftees. In fact, current retention rates among deployed troops are higher than for forces based in the United States. Because volunteers are paid more and it is costly to train new soldiers, there is a greater incentive to use our troops wisely.

The military has also been successful in its efforts to increase the aptitude of recruits. Today's military is better educated than the general population. While more than 90 percent of military recruits have a high school diploma, only 75 percent of the general population does. Military recruits are also more likely to score high on aptitude tests than their civilian counterparts.

I was, frankly, surprised to see this bill on the suspension calendar for today. Typically, bills are brought up under suspension when they are non-controversial as a two-thirds vote of the House is required for passage. This bill, which enjoys virtually no support in the House, will be resoundingly defeated and I can only surmise that the Majority has only called up this bill in order to vote it down, and in so doing divert attention from the mistakes made by the Administration in overextending our forces.

We do have a military manpower shortage now, but the draft is not the answer. Over the objections of the Administration, the House has authorized the Army and Marine Corps to increase their active-duty end strength by 20,000 and 10,000, respectively. This will help to alleviate some of the strain on both the active and reserve components.

I hope that the Congress will focus attention next year on military manpower issues. We need to reconfigure our military and address the need for personnel who specialize in stability and post-conflict operations. Currently, most of the personnel who are expert in this area are in the Guard and Reserves and there are reports that re-enlistment rates in some units are down as a result of multiple extended deployments overseas.

Throughout my tenure in Congress, I have visited our troops on the front lines as often as possible. I am awed by their courage, their patriotism and their competence. We need to do more to support them and to ensure that they are not overextended, but reinstating the draft is not the answer. Better treatment of those who wear the uniform, and those who once served, is the more constructive solution.

Mr. DUNCAN. Mr. Speaker, I rise in opposition to this bill. With the modern technology found in most weapons today, the U.S. military needs a more highly educated force than it needed years ago. Also, the United States does not need the large numbers of soldiers our armed forces required in previous large wars. Our all-volunteer military is working well, and we have raised pay and benefits up to higher levels than most would be making in the private sector.

Secretary Rumsfeld agrees. In recent testimony before the Armed Services Committee in the other body, he noted:

''We've got 295 million people in the United States of America. We need 1.4 million to serve in the active force. We have no trouble attracting and retaining the people we need.''

''We are not having trouble maintaining a force of volunteers. Every single person's a volunteer. We do not need to use compulsion to get people to come in the armed services. We got an ample number of talented, skillful, courageous, dedicated young men and women willing to serve. And it's false.''

Service in our armed forces is one of the most honorable ways anyone can serve this Nation, and our military is attracting very good people. However, in a society that prides itself on individual liberty and personal freedom, public service is not the only way to serve the common good. A free country should never force anyone to work for the government unless there is no other reasonable alternative.

We can teach our children to love and appreciate this country without forcing any young person to serve in the military against his or her will. There are plenty of professions where people honorably serve others, a good many of which are in the private sector.

Farmers serve this Nation well providing food for the people. Bankers serve the Nation well by creating the capital and financing for small businesses to create jobs and hire hard-working people.

Nurses and doctors serve the Nation well by working long hours protecting us from disease and injury.

Farmers, doctors, teachers, business people—these are just a few of the countless people in countless professions who work hard at honest jobs serving others in service to this Nation.

For every person we force into the military against his or her wishes, we are taking away the ability of that individual to fulfill the God-given right to pursue one's own happiness, a right that Thomas Jefferson made the centerpiece of the Declaration of Independence.

Mr. BLUMENAUER. Mr. Speaker, it is unfortunate that neither the administration nor the Republican leadership in Congress is willing to face the facts. The reckless rush to war in Iraq without being prepared to win the peace has put our troops seriously at risk. We have a situation that continues to deteriorate on the ground in Iraq. We are forcing young men and women to stay in the military and are exerting inordinate pressure to extend their enlistments. Finally, we are reducing the qualifications of new recruits into the military. This is all a desperate attempt to maintain our inadequate troop strength levels.

Rather than acknowledge the problems and deal with responsible proposals that have been offered by a number of our colleagues, the Republican leadership has instead advanced to the floor legislation to reinstate the draft which they do not even support.

It is time to stop playing games with the welfare of the young men and women that are serving us in Iraq and around the world. They deserve better. They deserve proper equipment and an increase in our overall troop level. They need leadership in the White House and in Congress to help stabilize and reverse the perilous situation into which they have been thrust, against the best advice of uniformed leadership.

I urge my colleagues to reject this legislation and to provide a responsible alternative to increasing the troop level and increasing the range and nature of support from other countries. Sadly, it appears that this White House, the current Secretary of Defense and the Republican leadership in Congress are not equal to the task at hand. Hopefully, after November we will be given a new opportunity to address these critical issues.

Mr. PAUL. Mr. Speaker, I rise to oppose H.R. 163 in the strongest possible terms. The draft, whether for military purposes or for some form of ''national service,'' violates the basic moral principles of individual liberty upon which this country was founded. Furthermore, the military neither wants nor needs a draft.

The Department of Defense, in response to calls to reinstate the draft has confirmed that conscription serves no military need. Defense officials from both parties have repudiated the need to reinstate the draft. For example, Secretary of Defense Donald Rumsfeld has said

that, "The disadvantages of using compulsion to bring into the armed forces the men and women needed are notable," while President William Clinton's Secretary of the Army Louis Caldera, in a speech before the National Press Club, admitted that, "Today, with our smaller, post-Cold War armed forces, our stronger volunteer tradition and our need for longer terms of service to get a good return on the high, up-front training costs, it would be even harder to fashion a fair draft."

However, the most important reason to oppose H.R. 163 is that a draft violates the very principals of individual liberty upon which our nation was founded. Former President Ronald Reagan eloquently expressed the moral case against the draft in the publication Human Events in 1979: ". . . [conscription] rests on the assumption that your kids belong to the State. If we buy that assumption then it is for the State—not for parents, the community, the religious institutions or teachers—to decide who shall have what values and who shall do what work, when, where and how in our society. That assumption isn't a new one. The Nazis thought it was a great idea."

Some say the 18 year old draftee "owes it" to his (or her, since N.R. 163 makes woman eligible for the draft) country. Hogwash! It just as easily could be argued that a 50 year-old chicken-hawk, who promotes war and places the danger on innocent young people, owes more to the country than the 18 year-old being denied his (or her) liberty.

All drafts are unfair. All 18 and 19 year olds are never drafted. By its very nature a draft must be discriminatory. All drafts hit the most vulnerable young people, as the elites learn quickly how to avoid the risks of combat.

Economic hardship is great in all wars and cannot be minimized. War is never economically beneficial except for those in position to profit from war expenditure. The great tragedy of war is that is enables the careless disregard for civil liberties of our own people. Abuses of German and Japanese Americans in World War I and World War II are well known.

But the real sacrifice comes with conscription—forcing a small number of young vulnerable citizens to fight the wars that older men and women, who seek glory in military victory without themselves being exposed to danger, promote. The draft encourages wars with neither purpose nor moral justification and that are too often not even declared by the Congress.

Without conscription, unpopular wars are difficult to fight. Once the draft was undermined in the 1960s and early 1970s, the Vietnam War came to an end. But most importantly, liberty cannot be preserved by tyranny. A free society must always resort to volunteers. Tyrants think nothing of forcing men to fight and serve in wrongheaded wars. A true fight for survival and defense of America would elicit, I am sure, the assistance of every able-bodied man and woman. This is not the case for wars of mischief far away from home in which we have experienced often in the past century.

A government that is willing to enslave some of its people can never be trusted to protect the liberties of its own citizens. I hope all my colleagues join me in standing up for individual liberty and to shut down this un-American relic of a bygone era and help realize the financial savings and the gains to individual liberties that can be achieved by ending Selective Service registration.

Mr. PUTNAM. Mr. Speaker, it must be an election year, because the fear mongering is in full swing.

President George W. Bush has repeatedly said he doesn't intend to revive the draft, because he believes that the military is more effective and less expensive as an all-volunteer force than it would be under a draft. Yet that hasn't stopped his critics, who are waging a behind-the-scenes campaign to frighten the American people.

The truth is this: President Bush has no "secret plan" to reinstitute the draft, and the only measure that would do so is the one we are considering today—offered by members of Senator KERRY's party and cosponsored solely by the minority party.

I concur with the Pentagon's assessment that the all-volunteer force has provided a military "that is experienced, smart, disciplined and representative of America." Volunteer soldiers are more family-oriented, career-oriented and stay longer. Lastly, there is no need for a draft at this time.

Mr. Speaker, I am opposed to this bill, and its overwhelming rejection today by the Members of the House will put to rest the spin that is being offered by those merely interested in frightening voters during an election year. I urge my colleagues to join me in denouncing these tactics and voting against this bill.

Mr. ORTIZ. Mr. Speaker, I rise in opposition to the bill to reinstate a military draft in the United States. It is unfortunate that we find ourselves in this position . . . but it is not a matter of needing a draft . . . this administration has not managed our resources and our troops well.

We went into the Iraq war with no exit strategy, and the current military reinforcements are coming from the administration's backdoor draft via calling the Individual Ready Reserve (IRR) back into service. The IRR are those who have already fulfilled their active duty service requirement to the United States.

The Nation does not need a draft for an all-volunteer force. We need to wisely and effectively manage or troops and our resources in the theater. Charging into Iraq with insufficient troop numbers—against the advise of the Army Chief of Staff—and allowing an insurgency to fester, have combined to put our troops in far more danger than need be.

Even our distinguished former U.S. civilian administrator in Iraq, L. Paul Bremer, said just yesterday that the United States "paid a big price" for not having enough troops on the ground after we overthrew Saddam Hussein.

Bremer said when he arrived to head the U.S.-led Coalition Provisional Authority in Baghdad in early May, 2003, there was already "horrid" looting occurring. I agree with Ambassador Bremer when he goes on to say: "We paid a big price for not stopping it because it established an atmosphere of lawlessness. We never had enough troops on the ground."

Now, our current method of retaining a list of people for the Selective Service, for registration only, is important tool to retain should we ever need an enormous, rapid infusion of manpower in the military.

Let me say to my colleague from New York, Mr. RANGEL, our distinguished friend who introduced this bill to illustrate the point that many of our service men and women today are in the military because they have very few economic choices in their lives. I join you in urging all the sons and daughters of America, rich and poor, to be part of the uniformed service. We cannot have one class of Americans to fight our wars and another class of Americans benefiting from those wars.

Freedom isn't free—for any of us.

Mr. Speaker, this bill is a politically motivated diversion. It is not well conceived . . . it did not get a hearing in our House Armed Services Committee and it's not a serious attempt—for if it were, it would have gone through our process here and would not be destined for defeat as a "non-controversial" bill.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill now under consideration, H.R. 163.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 163.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have not voted in the affirmative.

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on suspending the rules and passing the bill, H.R. 163, will be followed by 5-minute votes on suspending the rules and passing H.R. 2929, and suspending the rules and passing H.R. 5011.

The vote was taken by electronic device, and there were—yeas 2, nays 402, not voting 29, as follows:

[Roll No. 494]

YEAS—2

Murtha
Stark

NAYS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn

Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—29

Boehlert
Brown (OH)
Brown, Corrine
Cannon
Cox
DeMint
Dooley (CA)
Forbes
Gephardt
Greenwood
Hoeffel
John
Jones (OH)
Kaptur
Kleczka
Kucinich
Lampson
Majette
McIntyre
Meeks (NY)
Millender-McDonald
Nethercutt
Norwood
Portman
Pryce (OH)
Sandlin
Slaughter
Tauzin
Terry

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOSSELLA) (during the vote). There are 2 minutes remaining in this vote.

□ 1929

Mrs. CUBIN and Messrs. EMANUEL, PORTER, DOOLITTLE, DELAHUNT, SHERMAN, RADANOVICH and BASS changed their vote from ''yea'' to ''nay.''

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. TERRY. Mr. Speaker, on rollcall No. 494, I was unavoidably detained. Had I been present, I would have voted "no."

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2929, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2929, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 399, nays 1, not voting 32, as follows:

[Roll No. 495]

YEAS—399

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo

Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—32

Boehlert
Brown (OH)
Brown, Corrine
Cannon
Cox
DeMint
Dooley (CA)
Forbes
Gephardt
Greenwood
Hefley
Hoeffel
John
Jones (OH)
Kaptur
Kleczka
Kucinich
Lampson
LaTourette
Majette
McIntyre
Meeks (NY)
Millender-McDonald
Moran (VA)
Nethercutt
Norwood
Portman
Pryce (OH)
Sandlin
Simmons
Slaughter
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOSSELLA) (during the vote). Members are advised that 2 minutes are remaining in this vote.

□ 1938

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY PERSONNEL FINANCIAL SERVICES PROTECTION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5011, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 5011, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 2, not voting 34, as follows:

[Roll No. 496]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Flake
Paul

NOT VOTING—34

Boehlert
Brown (OH)
Brown, Corrine
Cannon
Cox
DeMint
Dooley (CA)
Forbes
Gephardt
Greenwood
Hoeffel
John
Jones (OH)
Kaptur
Kleczka
Kucinich
Lampson
Majette
McIntyre
Meeks (NY)
Millender-McDonald
Moran (VA)
Murtha
Napolitano
Nethercutt
Norwood
Portman
Pryce (OH)
Rangel
Renzi
Sandlin
Sherman
Slaughter
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1946

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORAN of Virginia. Mr. Speaker, on rollcall Nos. 495 and 496, had I been present, I would have voted "yea."

CONSIDERATION OF MEMBER AS FIRST SPONSOR OF H.R. 871

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 871, a bill originally introduced by Representative Bereuter of Nebraska, for the purpose of adding cosponsors and requesting reprintings pursuant to clause 7 of rule XII.

The SPEAKER pro tempore (Mr. MURPHY). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

AGRICULTURAL ADJUSTMENT ACT AMENDMENT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the

bill (H.R. 2984) to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

The Clerk read as follows:

H.R. 2984

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

SECTION 1. PEAR MARKETING ORDERS.

Section 8c(7)(C) of the Agricultural Adjustment Act (7 U.S.C. 608c(7)(C)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the last sentence—

(1) by striking ''or pears''; and

(2) by striking '': *Provided*,'' and all that follows through ''be equal''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself of such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2984, introduced by the gentleman from Oregon (Mr. WALDEN). This legislation removes the requirement that processors be members of an agency administering a marketing order applicable to pears.

The pear industry has been working with the U.S. Department of Agriculture to consolidate the various pear marketing orders. Current statute requires that any marketing order that assesses processing pears must have equal representation from producers and processors on its governing board. This statute is a barrier to the industry's consolidation plan and would unjustly grant processors, who do not pay in the Federal marketing orders, a role in directing activities funded with producer dollars.

H.R. 2984 would allow producers alone to dictate how their funds will be used in pear promotion activities. The pear industry, from producers to processors, is united in their support of this bill.

I want to applaud its gentleman from Oregon (Mr. WALDEN) for his work in bringing forth commonsense legislation that is wholeheartedly supported by the pear industry. I appreciate his leadership on behalf of his constituents. I urge my colleagues to support H.R. 2984.

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

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2984. Current statute requires any marketing order that assesses processing pears must have equal representation from producers and processors on its governing board. This statute is a barrier to the industry's consolidation plan and would unjustly grant processors, who do not pay into Federal marketing orders, a role in directing activities funded with producer dollars.

The Pacific Northwest pear industry is seeking to consolidate promotional activity under a single Federal marketing order for fresh pears and processing pears that will be funded, operated and managed by pear producers.

H.R. 2984 would remove the existing processor membership requirement, allowing the industry to establish a single producer-funded-and-operated Federal marketing order. This change will pave the way for consolidation and allow producers alone to determine how their funds will be used in pear promotion activities.

The pear industry is unified in support of the proposed changes made in H.R. 2984, and I encourage members to support this measure.

Mr. Speaker, I ask unanimous consent that the gentleman from North Dakota (Mr. POMEROY) be allowed to manage the balance of my time.

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

There was no objection.

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Oregon (Mr. WALDEN), the author of the legislation.

Mr. WALDEN of Oregon. Mr. Speaker, I want to thank the ranking member of the committee and the committee chairman and subcommittee chairman for their work on this legislation. I want to thank the gentleman from Washington (Mr. HASTINGS), the gentleman from Washington (Mr. NETHERCUTT) and the gentleman from Washington (Mr. LARSEN) for joining me as cosponsors of this legislation.

Mr. Speaker, I represent pear country in the northwest, at least in the State of Oregon. In the great Hood River Valley and down in the Jackson Road Valley, Jackson County and elsewhere across my district, they grow tremendous, tasty pears, many of which find their way into special packages from Harry and David, among other companies.

Our pear growers are trying to be innovative in terms of how they market their products. Many individual growers now are growing organic fruit, and many are taking it upon themselves to market their own products to the public, as opposed to necessarily going through big processors, although, obviously, the bulk of the fruit still is dealt with that way. But they are looking for new ways to bring value added to their products.

The industry, therefore, is seeking to consolidate their promotional activity under a single Federal marketing order, and the current statute requires that any marketing order that assesses processing pears must have equal representation from producers and processors on its governing board, and yet the processors pay nothing into this process.

So, as a result, they have come to us, the processors and the growers, and said, ''You know, why don't you change this law and let us go ahead and streamline how we operate.''

So this legislation does that. It removes the existing processor membership requirement, and the processors all support that. The change will pave the way for consolidation and allow producers alone to dictate how their funds will be used in pear promotional activities.

The pear industry is united behind this. Each of the Pacific Northwest pear processors have expressed support for the changes. The Oregon, Washington and California State marketing commissions support it. Both Federal marketing orders are in support. The Pacific Northwest Canned Pear Service, the nonprofit voluntary marketing board of the Northwest canned pear industry, supports it. And the Washington-Oregon Canning Pear Association, the nonprofit bargaining association, all support H.R. 2984.

So, Mr. Speaker, I encourage the approval of this legislation. I look forward to having this written into law and having our pear industry be able to be more competitive in its promotional activities.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to assume the responsibility of floor management on this and subsequent pieces of legislation for the ranking member, the gentleman from Texas (Mr. STENHOLM). He, at this moment, is appearing before the House Committee on Rules in support of an amendment to be considered tomorrow advancing disaster relief for America's farmers.

The amendment of the gentleman from Texas (Mr. STENHOLM), which I have cosponsored and strongly support, would represent a commitment by this House similar to that made by the Senate, a roughly $3 billion commitment in support of farmers who have had disastrous results this growing season in light of weather circumstances not anticipated and not normal and truly of a disastrous magnitude.

We stand prepared and will help those victims of the Florida hurricanes. We also have to recognize that, when it comes to production of agriculture, there are a lot of other types of disasters that have wreaked havoc right across this country, and that is the reason that the legislation that the gentleman from Texas (Mr. STENHOLM) is moving forward, supported by both Republican and Democratic Members of this body representing agriculture production areas, is so critically important.

I certainly hope that the ranking member is successful in his efforts to have an amendment made in order that will allow consideration of the disaster relief. We believe and we believe strongly that the disaster relief that passed the Senate is the disaster relief that our farmers need and deserve. We believe anything short of that would be an abdication by this House in meeting the needs of farmers. That is why we feel so strongly about it that the gentleman from Texas (Mr. STENHOLM) actually left the floor management to go

to rules and make the case for this legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I urge my colleagues to support passage of this legislation to remove the Agricultural Adjustment Act requirement that processors be members of an agency administering a marketing order on pears.

I want to thank my friend and colleague from Oregon, Mr. WALDEN, for his hard work on behalf of the NW pear industry.

My Congressional district produces 44 percent of the nation's pears, and Washington State is the top pear producing state in the nation. The pear growers I represent and their fellow pear growers throughout the Pacific Northwest are working hard to meet the challenges of foreign competition and changing consumer tastes, and industry marketing organizations are a vital part of this effort. However, Northwest pear growers are operating under an unnecessarily complicated arrangement involving two federal marketing orders and two state commodity commissions. The industry would like to streamline its grade standards and marketing efforts by moving to a single federal marketing order.

Moving from four organizations doing the same job to one seems like common sense to me, but there is a problem. Current federal statute requires that any marketing order that covers pears for processing must have equal representation from producers and processors on its governing board. Keep in mind that it is producers, not processors, that pay the assessments and are subject to the marketing orders' quality standards. For this reason a requirement that processors have equal representation is unreasonable and is a barrier to the industry's plan to consolidate its organizations.

This legislation will simply remove the requirement that the number of producer and processor representatives be equal. If passed, our bill would allow the Northwest pear industry to establish a single federal marketing order that does not give disproportionate influence to one segment of the industry.

This legislation is supported by the Pacific Northwest pear industry, and the processors themselves do not oppose the removal of this provision.

I urge my colleagues to support this bill.

Mr. POMEROY. Mr. Speaker, I have no further requests for time on the legislation before us, and, on behalf of the gentleman from Texas (Mr. STENHOLM), I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 2984.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2984.

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

There was no objection.

EXPRESSING SUPPORT OF HOUSE FOR ORGANIZATIONS PROVIDING EMERGENCY FOOD ASSISTANCE

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 261) expressing the support of the House of Representatives for the efforts of organizations such as Second Harvest to provide emergency food assistance to hungry people in the United States, and encouraging all Americans to provide volunteer services and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters.

The Clerk read as follows:

H. RES. 261

Whereas food insecurity and hunger are a fact of life for millions of low-income Americans and can produce physical, mental, and social impairments;

Whereas recent census data show that almost 13,000,000 children in the United States live in families experiencing hunger or food insecurity;

Whereas the problem of hunger and food insecurity can be found in rural, suburban, and urban America, touching nearly every American community;

Whereas although substantial progress has been made in reducing the incidence of hunger and food insecurity in the United States, certain groups, including the working poor, the elderly, homeless people, children, migrant workers, and Native Americans remain vulnerable to hunger and the negative effects of food deprivation;

Whereas the people of the United States have a long tradition of providing food assistance to hungry people through acts of private generosity and public support programs;

Whereas the Federal Government, through Federal food assistance programs such as the Federal Food Stamp Program, child nutrition programs, and food donation programs, provides essential nutrition support to millions of low-income people;

Whereas there is a growing awareness of the important public and private partnership role that community-based organizations, institutions of faith, and charities provide in assisting hungry and food insecure people;

Whereas more than 50,000 local community-based organizations rely on the support and efforts of more than 1,000,000 volunteers to provide food assistance and services to millions of vulnerable people;

Whereas a diverse group of organizations, including America's Second Harvest, the United States Conference of Mayors, and other organizations have documented substantial increases in requests for emergency food assistance over the past year; and

Whereas all Americans can help participate in hunger relief efforts in their communities by donating food and money, by volunteering, and by supporting public policies aimed at reducing hunger: Now, therefore, be it

Resolved, That the House of Representatives supports the efforts of organizations such as Second Harvest to provide emergency food assistance to hungry people in the United States, and encourages all Americans to provide volunteer services and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution, which recognizes the efforts of communities and faith-based groups such as Second Harvest to recover surplus food from restaurants and other facilities and donate it to local soup kitchens.

These efforts play an important role in combating hunger, which afflicts far too many Americans, particularly children.

The resolution is sponsored by the gentleman from Virginia (Mr. WOLF) and has 43 cosponsors. As we approach the holiday season, it is important to acknowledge these voluntary efforts. I urge my colleagues to support this resolution.

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

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again stand in support of the ranking member, the gentleman from Texas (Mr. STENHOLM), as he testifies before the Committee on Rules on behalf of his amendment that would allow disaster assistance similar to that passed by the Senate to be considered by the House tomorrow.

I think it is very important for people to know that this bill is of critical importance to the district the gentleman from Texas (Mr. STENHOLM) has represented so well for so long. They have had catastrophic losses from drought in 2003. And while there are some discussions percolating about a disaster bill for 2004, we know there was no disaster response for the losses suffered by farmers in 2003.

The Senate saw fit to take care of that, and in their bill, 2003 is provided for. That amendment by the Senate sits in conference committee on the homeland security bill right now. That is why I was so pleased to see the Stenholm proposal come forward today, the proposal that would allow a farmer to choose whether the 2003 or 2004 losses would be covered under the bill, and in all other respects mirrors the $3 billion package that the Senate advanced.

I am pleased that the gentleman from Texas (Mr. STENHOLM) is up in the Committee on Rules right now, and I am also pleased on his behalf to then read the statement that he would have been prepared to give on behalf of this legislation: ''Mr. Speaker, I rise in full support of H. Res. 261. This resolution

expresses congressional support for the vitally important work carried out by organizations such as America's Second Harvest in ensuring that needy Americans do not suffer from the pangs of hunger.

''In addition, it also encourages all Americans to provide volunteer services and other support for local anti-hunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens and emergency shelters.

''I have long been associated with the work of America's Second Harvest and, in particular, with the efforts of its member food banks, the South Plains Food Bank in Lubbock and the Food Bank of Abilene.''

Remember, these are the words the gentleman from Texas (Mr. STENHOLM) was prepared to deliver as he represents his district. I am more familiar with the food banks in Fargo and Bismarck.

Resuming the statement of the gentleman from Texas (Mr. STENHOLM), ''It is crucial that Congress take time to acknowledge the hard work of more than 1 million volunteers who strive to feed over 23 million needy Americans each year. These volunteers provide this necessary assistance in every community, large and small, rural and urban, across the United States. I wholeheartedly encourage my colleagues to support this resolution.''

That concludes the statement that the gentleman from Texas (Mr. STENHOLM) was prepared to make. I would add my own comments.

What we are seeing is an unprecedented demand on food shelters, not just in Abilene, not just in Lubbock, but all across this country. There is something happening in this economy. Regardless of what the macrostatistics may tell you, there is a growing demand on our food banks.

Now, I think that there are any number of economic indicators in this country, but one that deeply alarms me is this draw on the food banks.

□ 2000

This is truly the last stop for people who cannot feed their families.

When we have this draw on our food banks, we know that something terrible is going wrong in terms of the middle-income folks slipping into ever-greater problems in making ends meet; and the lower incomes below that, falling short of such critical necessities as being able to buy their groceries. That is why they are showing up at these food shelters.

So I appreciate this resolution and I appreciate the support of the gentleman from Texas (Mr. STENHOLM), I appreciate the support of the chairman; and I urge adoption of this resolution.

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

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

This is a very worthy resolution and it reflects on the great work done by food banks and those who volunteer their efforts in the various food pantries and soup kitchens and restaurants that depend upon those food banks, including food banks in my congressional district, the Southwest Virginia Second Harvest Food Bank and the Blue Ridge Second Harvest Food Bank.

I urge my colleagues to support the resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H. Res. 261. Currently, about 35 million Americans either don't know where their next meal is coming from, or they have to cut back on what they eat because they don't have enough money for groceries. Thankfully, there are organizations like Second Harvest who provide when it is most needed. America's Second Harvest is the largest domestic hunger-relief organization in the United States. The America's Second Harvest mission is to feed hungry people by soliciting and distributing food and grocery products through a nationwide network of certified affiliate food banks and food-rescue programs and to educate the public about the nature of and solutions to the problem of hunger in America.

America's Second Harvest's network of more than 200 regional food banks and food-rescue organizations serves all 50 states, the District of Columbia, and Puerto Rico by distributing food and grocery products to approximately 50,000 local charitable hunger-relief agencies including food pantries, soup kitchens, women's shelters, Kids Cafes, Community Kitchens, and other organizations that provide emergency food assistance.

As we approach fall and the holiday season, many of our food banks will not have enough food. I urge our citizens who are fortunate to have the necessities in life to share with their neighbors who are more in need—not just around the holidays when we are reminded but throughout the year. I hope one day Congress is able to report to our Nation that the number of hungry citizens in our Nation is decreasing. I urge my colleagues to support this legislation as a way to thank those organizations that have assisted in feeding the hungry for so many years and encourage more people to assist in this fight.

Mr. WOLF. Mr. Speaker, I want to thank my friend and Virginia colleague, Chairman GOODLATTE for recognizing the importance of this resolution.

The resolution recognizes organizations such as America's Second Harvest that provide emergency food assistance to hungry people in the United States, and encourages all Americans to provide volunteer services and other support for local anti-hunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters. I hope it will help draw attention to the problem of hunger in America today.

I have mixed emotions today—proud of the armies of compassion that are represented by organizations such as America's Second Harvest and sad because its been 40 years since President Johnson declared war on poverty and hunger . . . and yet, today, 13 million kids still live in households that do not have an adequate supply of food.

I am pleased that the House is considering this resolution which will help draw attention to this silent tragedy. In Matthew 25, Jesus talks about the obligation to feed the hungry. In a world, and especially a nation, as plentiful as ours—it is tragic that even one child faces food insecurity.

My state of Virginia is better off than many states. We are below the national average poverty rate of 11.6 percent. We have fewer people who don't have food—7.6 percent versus the national average of 10.4 percent. Yet, hunger is still here.

Substantial progress has been made to feed the hungry in the United States, yet too many Americans still go to bed hungry and feel the effects of food deprivation. Federal programs like the Food Stamp Program, child nutrition programs, and food donation programs, provide essential nutritional support to millions of low-income people, but the need remains.

Thankfully, community- and faith-based institutions are providing assistance to hungry people across the country. The armies of compassion are working hard, but we each must do our part to join in and support them.

We need to eliminate the barriers that many businesses must overcome when they decide to do the morally conscionable thing and donate their surplus goods. It's outrageous that it is more ''cost effective'' for a business to throw out or destroy surplus food rather than donate it to a local soup kitchen.

I hope that in the midst of the facts and statistics, no one misses the point of this resolution—that in a land of plenty, 13 million children still go to bed hungry. A country which is as blessed as ours needs to do better.

Mr. MCGOVERN. I want to thank my good friend, Mr. WOLF, for sponsoring this resolution and for his leadership in the fight to end hunger here in the United States and around the world.

I also want to thank Chairman GOODLATTE, Ranking Member STENHOLM, and the members of the Agriculture Committee for moving this resolution forward for consideration by the full House.

I rise in support of H. Res. 261. America's Second harvest, the food banks that operate across the country, and the volunteers who help provide assistance at these organizations deserve to be recognized and thanked for their diligence and hard work in combating hunger in America.

Mr. Speaker, I believe hunger is a political problem. There is no reason people—both here at home and around the world—should go without food. America is known as a country of plenty, and it is shameful that our prosperous nation still has children, veterans, seniors, and other individuals and families who simply do not know from day to day whether they will have enough to eat.

The system of food banks throughout the United States provides a safety net where individuals and families can go to get a meal when they really need one. In my own congressional district and hometown of Worcester, Massachusetts, the Worcester County Food Bank provides this invaluable service to the people of Central Massachusetts. Jean McMurray, the executive director of the Food Bank, helps provide food for soup kitchens and food pantries throughout Worcester County.

The food bank also runs and operates a kitchen where they prepare food for soup

kitchens and train people in food service and food preparation skills in order to find good-paying jobs. These are excellent programs and an excellent food bank, and I am so very pleasing that this resolution recognizes and honors the work of Jean McMurray, her staff and their counterparts across the country.

Mr. Speaker, our food banks are stretched thin. Every day they are called upon to provide more and more assistance. Sadly, more people go without food every day in our country, and the safety net provided by these food banks, the assistance that help the food insecure escape starvation, is strained to the breaking point.

As Co-Chair of the Congressional Hunger Center, I have worked closely with America's Second Harvest and local food banks. The Congressional Hunger Center, dedicated to training tomorrow's leaders in the fight against hunger, places Emerson Trust Fellows in food banks and other anti-hunger organizations across the country so that they may see and learn first-hand from the work carried out by these groups.

Mr. Speaker, like my colleague Mr. WOLF, I am committed to ending hunger in America. We have a blueprint researched and developed by the Alliance to End Hunger on how Congress and the American people, working together, can achieve that goal. This resolution honors many of the groups and individuals who are on the front lines of that battle, and I thank Congressman WOLF once again for his leadership. I hope passage of this resolution will help energize this body to make a full commitment to ending hunger in America once and for all.

Ms. KAPTUR. Mr. Speaker, I rise in support of this resolution commending Second Harvest and other food banks around the country who do such a wonderful job in providing essential assistance to people who need it. I am thankful each and every day that they are able to provide help to hungry people, as are the people who receive the food.

As the ranking member on the Subcommittee on Agricultural Appropriations, I have been torn over the level of funding we provide for our many food assistance programs. I am happy that we are able to provide as much funding as we do, while recognizing that there are still are other programs like WIC, Commodity Supplemental Feeding, and the Senior Farmers Market Nutrition Program, that could still use more.

I am unhappy about the growth in these food programs because they are supposed to be countercyclical. If our funding levels are high, then it means many among us, including many who have full time jobs, are not doing well economically. They need these food programs to help make ends meet.

Consider the following: In fiscal 2001, we provided $20.1 billion for Food Stamps. In the fiscal 2005 bill approved by the House in July, we included $33.6 billion, an increase of 67 percent in that one program. Do the additional 5.8 million program receiving these benefits think they are better off than they were four years ago?

According to testimony provided by USDA, in 2002, 47 percent of all infants born in the nation—1.9 million out of 4.1 million—were receiving benefits under the WIC program. What happened to meaningful jobs for their parents?

Last year the Toledo Blade reported of cases in which the families of individuals called up for active National Guard or Military Reserve Duty had to seek assistance from the WIC program because of lost family income. This is taking care of our servicemen and women and their families?

A population survey from the Census Bureau found that 12.1 percent of Ohioans were living in poverty in 2003, up from 11 percent in 2001. There is definitely a connection between increases in poverty and the thousands of jobs that have been lost in Ohio since 2001;

In 2003, the Toledo-Northwest Ohio Food Bank reported that food pantries and soup kitchens in the area served 28,000 households. By the end of June of this year, this number increased to 40,000 households. People who in past years had donated to food banks are now becoming recipients.

Local grocery stores had been generous in their support of food banks in prior years, but because of local closures and consolidations, the food banks are finding that the donations they are receiving are down while the need for the program has increased.

As a nation, while we support these programs of assistance because it is the right thing to do, no one should ignore the fact that there are reasons why people are on these programs. America needs more jobs that pay a living wage. America needs an increase in the minimum wage to be sure that families can live in dignity, not in despair. America needs to end the harsh choices we expect too many young families and too many elderly to make—do they pay the rent, pay for utilities, pay for health care, or leave money for food?

America, frankly, needs better days than we have seen for the past four years.

I ask unanimous consent to include at this point in the RECORD an article from the October 3rd issue of the Toledo Blade, entitled "Ranks of Area's 'Invisible' Poor are Increasing".

[From the Toledo Blade, Oct. 3, 2004]

RANKS OF AREA'S "INVISIBLE" POOR ARE INCREASING

MORE OHIO, MICHIGAN RESIDENTS ARE LIVING ON THE EDGE THAN EVER

(By Karamagi Rujumba)

Gary Robertson was laid off from his warehouse job eight months ago. With no steady income and the bills piling up, he soon lost his apartment. A couple of friends put him up for a while, but that didn't last for long. So one day, he was finally forced to do something he never imagined: He spent a night at a men's homeless shelter at the Cherry Street Mission. "I was homeless and that was hard for me to accept. I had never been to a food pantry or a shelter," said Mr. Robertson, a native of Alabama who moved to Findlay 17 years ago and got a job at an area warehouse. "I was doing well until I lost my job," Mr. Robertson said. He came to Toledo hoping for better luck in a larger city, but has since failed to find a regular job here. He has been working odd jobs to make his portion of the rent for an apartment he shares. When he needs food, he goes to the Cherry Street Mission's food pantry. Mr. Robertson is far from alone.

"We are seeing an increasing number of people who rely on pantries and soup kitchens, especially this year," said Lisa Hamler-Podolski, the executive director of the Ohio Association of Second Harvest Foodbanks, a Columbus-based agency that donates food to food banks across the state. A U.S. Census Bureau report released last month confirmed what many volunteers at area food pantries and soup kitchens have known for a long time—that more people in Ohio and Michigan live in poverty today than in past years.

AREA CENSUS FIGURES

Poverty is defined in terms of family size and income. For 2003, the Census Bureau reported that a family of four living on a total annual income of $18,810 or less is considered to be in poverty. And statistical benchmarks show poverty is on the rise in Toledo, Ohio, and Michigan: In the last Census report, Toledo was ranked eighth among cities that have the highest number of children living in poverty. A recent population survey from the Census Bureau found that 12.1 percent of Ohioans were living in poverty in 2003, up from 11.9 percent in 2002, and 11 percent in 2001. In Michigan, 11.4 percent of the population was living in poverty last year, compared to 11.6 percent in 2002 and 9.4 percent in 2001. In 2003, the Toledo-Northwest Ohio Food Bank, Inc., reported that the various food pantries and soup kitchens to which it distributed served 28,000 households. By the end of the first six months of 2004, the same pantries and kitchens reported that 40,000 households were dependent on their services.

"The people we are talking about appear to be invisible, but you see them everyday. They serve you at restaurants, take care of your parents in nursing homes, and make your beds in hotels," Ms. Hamler-Podolski said. "They are the new poor. People who have always had jobs and now, due to plant closings and downsizing, find themselves struggling to put food on the table."

DEMAND HIGH AT PANTRIES

Julie Chase Morefield, the director of marketing and operations at the Toledo-Northwest Ohio Food Bank, agreed. "The demand at area pantries and kitchens is way up and it has been a problem finding enough food to distribute," she said. Her agency serves 330 pantries and soup kitchens in eight northwest Ohio counties, including Lucas, Defiance, Fulton, Henry, Ottawa, Sandusky, Williams, and Wood counties. "It is worse than we have ever seen it. We've never really seen numbers this high," Ms. Morefield said. "There are a lot of people out there who are really struggling."

John Urban, a retired vacuum cleaner salesman is one of them. Standing in line for a food bag at the Helping Hands of Saint Louis pantry in East Toledo one recent Tuesday morning, Mr. Urban said his Social Security income of $900 a month no longer was enough to sustain him. "I come here once a month and they give me enough food to last a couple of weeks," said the 64-year-old, who was born on the city's east side. After showing his proof of residence and income, Mr. Urban was handed a brown bag stuffed with loaves of bread, bagels, macaroni, spaghetti sauce, several cans of soup, and powdered milk.

The line at the pantry on this particular morning was not very long. That is because it was the beginning of the month, said Linda Lupien, the director of Helping Hands. "The middle and the end of the month are usually very tough because that's when people run out of money," Ms. Lupien said. "We are seeing new faces every day and people who are hitting the pantry line because they simply cannot make it anymore."

Al Baumann, a retired pastor at Saint Mark's Lutheran Church in East Toledo, is the director of the Toledo Area Council of Churches, which runs the Feed Your Neighbor program. "There are a lot more people in Toledo who rely on food donations. You see them everyday, but you just don't know it," Mr. Baumann said. "We serve more than 30,000 families a year through our program." Feed Your Neighbor is a food voucher system involving 12 Toledo churches that was started in 1975, when the council of churches

started distributing emergency food supplies because of the drastic economic downturn of the 1970s. While the current economic climate is not as dire, Mr. Baumann said the number of people in need of food is growing every month. ''We're finding more people, even in the suburbs, who can no longer make ends meet,'' he said. ''A lot of people are not aware of the economic hardships their neighbors might be experiencing because of the way that we are economically segregated as a society.''

CUTTING FOOD STAMPS

Drastic cuts in federal government subsidies to food stamp and similar programs serving the poor is another reason that more people are lining up at food pantries, Mr. Baumann said. According to the Lucas County Department of Jobs and Family Services, there are now 27,784 households receiving food stamps and 4,574 families on cash assistance through the Ohio Works First program. The county has seen a steady increase in the number of people seeking cash and food assistance, said Cindy Ginter, the program manager at Lucas County's Department of Jobs and Family Services. In 2003, the county had 25,286 households on food-stamp rolls and 3,736 families on cash assistance.

''We would like to not have seen this kind of increase, but because of the economy, the numbers just keep increasing,'' Ms. Ginter said. The sluggish economy also is cited by the county's Women, Infants, and Children program for the record number of low-income earning families that depend on its services, said Tom Kuhn, the agency's director. In 1999, WIC, an agency of the Ohio Department of Health's Bureau of Nutrition Services, served 12,326 families in the county. This year, that number has jumped to more than 15,000 families. ''The numbers have been steadily rising, but this is the highest they have ever been,'' Mr. Kuhn said.

Sheldon Danziger, a professor of public policy at the Gerald R. Ford School of Public Policy at the University of Michigan, said the federal and state governments are not doing enough to stave the rising numbers of people living in poverty.

The Ohio Department of Jobs and Family Services came under fire last week because $431 million in federally-allocated funds have been sitting unused for months in the state's Temporary Assistance for Needy Families account. Director Tom Hayes confirmed the funds are being held while the state and counties design programs to spend the money.

ECONOMIC PROBLEMS

Mr. Danziger argued that it isn't because of a failure of antipoverty programs that poverty has remained high for Americans since the 1970s. He said it's because the economy has not delivered the benefits of prosperity to all workers, and because politicians and the public have lost faith in the ability of government to deal with the problem of poverty. ''Wage stagnation is one of the reasons that we still see people lining up at food pantries,'' Mr. Danziger said. ''Since the 1990s, labor market changes have meant that workers with a high school education or less have had wage rates that have not grown relative to the rate of inflation.'' He said the government has failed to implement public policies like a higher minimum wage adjusted for inflation, which would be the quickest way to help people who are struggling. The last time the minimum wage was adjusted was in 1997, when it was raised to $5.15 per hour. If it were to be adjusted to current inflation, the professor said, the minimum wage would be $6.10 per hour.

GLOBAL POVERTY INCREASE

Mr. Danziger said the gap between the rich and poor is not only increasing here, but in many developing nations of the world where more than a billion people continue to face extreme poverty. According to a report released by the World Commission on the Social Dimension of Globalization in February, more than a billion people lived on less than $1 per day in 2000. The commission, which was established in 2002 by the International Labor Organization, a United Nations agency, reported the gap between the richest and poorest countries has widened dramatically in the past four decades. In the U.S., increasing unemployment benefits and implementing more tax credit programs for low-wage earners would be a critical step in helping the unemployed get back on their feet, Mr. Danziger said. According to the Center on Budget and Policy Priorities, a Washington think tank, 17 States and the District of Columbia so far have enacted earned income tax credits for low income residents, which supplement the federal government credits.

Ohio and Michigan, however, are not among them.

These tax credits, Mr. Danziger argued, go a long way in meeting day-to-day expenses for low-wage earners. George Garcia, a Toledo truck driver, said he could have used some help when he almost lost his house after breaking both his legs in an accident that left him unemployed for more than six months. ''I was down to the last week and $1,500 behind on my mortgage. I had to tell the children that we were about to lose our home,'' said the 39-year-old father of three. After borrowing from several friends, he kept the family's home. But because he had no health insurance, he spent all his money on medical bills and had to turn to the Cherry Street pantry for food. ''The pantry was great. I always got enough food and when I took it home, it was like I had just come from the grocery store,'' he said. Though he now makes enough to support his family most of the time, Mr. Garcia acknowledged that ''every now and then, I have to go to the pantry to get by.''

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the resolution, H. Res. 261.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just considered.

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

There was no objection.

RECOGNIZING THE ESTABLISHMENT OF HUNTERS FOR THE HUNGRY PROGRAMS ACROSS THE U.S.

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 481) recognizing the establishment of Hunters for the Hungry programs across the United States and the contributions of those programs to efforts to decrease hunger and help feed those in need.

The Clerk read as follows:

H. RES. 481

Whereas Hunters for the Hungry programs are cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to help feed those in need;

Whereas during the past three years Hunters for the Hungry programs have brought hundreds of thousands of pounds of venison to homeless shelters, soup kitchens, and food banks; and

Whereas each year donations have multiplied as Hunters for the Hungry programs continue to feed those in need: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the cooperative efforts of hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to establish Hunters for the Hungry programs across the United States; and

(2) recognizes the contributions of Hunters for the Hungry programs to efforts to decrease hunger and help feed those in need.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 481, as introduced by the gentleman from Georgia (Mr. GINGREY).

This resolution recognizes and encourages Hunters for the Hungry programs. These are voluntary, cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to help feed those in need. These programs are in place in almost every State. They have brought hundreds of thousands of pounds of venison to homeless shelters, soup kitchens, and food banks, feeding thousands of needy people.

Hunters for the Hungry programs are great examples of community service. This resolution is intended to bring attention to these programs and to promote additional constructive ideas for addressing the problem of hunger.

Hunting season is right around the corner in much of the country, and I urge my colleagues to do everything they can to support these important programs. Not only does hunting contribute to our rural economy, it helps our communities fight hunger.

I urge my colleagues to support this resolution, and I congratulate the gentleman from Georgia (Mr. GINGREY) for his efforts to move this resolution forward.

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

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

I am here once again representing my ranking member on the Committee on Agriculture, the gentleman from Texas (Mr. STENHOLM) as he testifies before the Committee on Rules, attempting to secure placement of the legislation he has offered in support of disaster assistance to farmers.

To reveal the state of play here, the Senate has passed a $3 billion disaster bill to help farmers in light of the disastrous losses that they have suffered, not just from hurricanes, but we have seen it all, a big swath of losses due to drought. In North Dakota, we have even had disaster losses of a significant magnitude due to early frost, frost coming on August 19.

There are some in the House discussing a nod to disaster assistance to the tune of $500 million, maybe up to close to $1 billion. This does not come close to addressing the needs of farmers across this country.

Mr. Speaker, a $3 billion bill passed by the Senate is a much more realistic and substantive response, and I hope that the House is given the opportunity by the Committee on Rules, pursuant to the testimony of the gentleman from Texas (Mr. STENHOLM) right now, to consider the full disaster package, the $3 billion disaster package.

Mr. Speaker, when it comes to production agriculture, we have macro statistics and we have micro circumstances. The macro statistics may reveal that this is just another year in production agriculture, but we know from the hurricanes in the State of Florida that it has been anything but a normal year in terms of production agriculture.

If we take you over to the Great Plains States, we will show you a drought that is beginning to rival what they saw in the Great Depression, the ''Dirty 30s,'' reservoirs drying up, year after year of failed production. Up in North Dakota, and I will tell my colleagues that I am a farm retailer's kid, I have been close to farming and agriculture all of my life, I have never seen a frost on August 19 do such harm to the production that we were experiencing.

This is why this disaster bill is so critically important, and that is why I wish the gentleman from Texas (Mr. STENHOLM) well in his testimony before the House Committee on Rules.

I will say of his statement on behalf of this bill, wholehearted support, I appreciate very much the chairman's efforts in moving this bill forward, and I will go on to read the statement of the gentleman from Texas (Ranking Member STENHOLM) on behalf of H. Res. 481.

''Mr. Speaker, I express my wholehearted support for H. Res. 481 which recognizes the establishment of the Hunters for the Hungry programs across the United States and the vital contributions these programs make in the ongoing effort to decrease hunger and help feed those in need.

''Hunters for the Hungry programs are volunteer and cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to help feed those in need.

''These programs are not only simple, but also practical. The hunters provide the game meat, which is taken to processors who cut, wrap, and freeze it. The meat is then distributed through agencies such as food banks and other nonprofit organizations which feed the needy.

''In my home State of Texas,'' again speaking on behalf of the gentleman from Texas (Mr. STENHOLM), ''the Texas Association of Community Action Agencies, Inc., with funding from the Texas Department of Housing and Community Affairs, has worked with the hunters' program for over 10 years. Since 1991, the Hunters for the Hungry program in Texas has distributed over 480,000 pounds of venison to the needy in Texas.

''Hunters for the Hungry programs provide an excellent example of community service in action. The intention of this resolution is more than just to congratulate those who participate in these programs for a job well done. The resolution also serves to bring attention, encourage participation, and promote additional constructive ideas for addressing the problem of hunger in the United States.''

Mr. Speaker, seeing no further requests for time, I yield back the balance of our time.

Mr. GOODLATTE. Mr. Speaker, at this time it is my pleasure to yield such time as he may consume to the gentleman from Georgia (Mr. GINGREY), the chief sponsor of the legislation.

Mr. GINGREY. Mr. Speaker, first I want to thank the distinguished chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE), as well as the ranking member, for bringing this resolution to the floor today.

On December 8, 2003, I introduced House Resolution 481 to bring attention to an often-overlooked group of hunters and meat processors who help feed thousands of homeless and hungry people each year. It was my intention to draft a resolution that would praise Hunters for the Hungry programs across our country in many States, all States, and encourage new and innovative ways of addressing our Nation's hunger problem.

Although these organizations have various names, depending on the State or region of the country, Hunters for the Hungry organizations show the humanitarian and kind-hearted spirit of our Nation's hunting community. Hunters for the Hungry programs are volunteer and cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations. All of these groups work together to help feed those in need.

Over the past 3 years, such programs have brought hundreds of thousands of pounds of excess venison to homeless shelters, to soup kitchens and food banks, feeding thousands of needy people. Each year, donations have multiplied and programs now find themselves overflowing with thousands of pounds of meat and, at times, they cannot even cover the cost of processing, packaging, storing, and distributing the meat.

Hunters for the Hungry programs are great examples of community service. They serve to feed the needy and to prevent waste. Meat is a rare commodity for agencies serving the needy, and a supply of venison from the Hunters for the Hungry will typically provide the best meal these needy people have had for weeks or even months.

Most importantly, Hunters for the Hungry organizations serve as a great example of how our Nation can address issues like hunger without government intervention. These organizations receive no government money, and they operate from donations and volunteer service. We must revise the awareness of these organizations so they can solicit more monetary donations and volunteers.

As Josh Wilson, the operations director for the Farmers and Hunters Feeding the Hungry program put it, ''I know it is quite encouraging to our FHFH coordinators and to the other venison programs to know that their efforts are noticed and appreciated.''

Mr. Speaker, I ask the House of Representatives to speak in one voice of encouragement and gratitude to these organizations for all of their community service.

Mr. GOODLATTE. Mr. Speaker, I congratulate again the gentleman from Georgia and thank him for bringing forward this fine resolution. I urge my colleagues to support it.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the resolution, H. Res. 481.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 481, the resolution just considered.

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

There was no objection.

AMENDING THE DEPARTMENT OF AGRICULTURE ORGANIC ACT OF 1944 TO ENSURE THAT DEPENDENTS OF EMPLOYEES OF THE FOREST SERVICE STATIONED IN PUERTO RICO RECEIVE HIGH-QUALITY ELEMENTARY AND SECONDARY EDUCATION

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5042) to amend the Department of Agriculture Organic Act of 1944 to ensure that the dependents of employees of the Forest Service stationed in Puerto Rico receive a high-quality elementary and secondary education.

The Clerk read as follows:

H.R. 5042

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

SECTION 1. AUTHORITY TO COVER EXPENSES OF PRIMARY AND SECONDARY SCHOOLING OF DEPENDENTS OF FOREST SERVICE PERSONNEL IN PUERTO RICO.

Section 202 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 554b) is amended—

(1) by inserting ''(a) PROVISION OF MEDICAL CARE; RELATED TRANSPORTATION.—'' before ''Appropriations for the Forest Service''; and

(2) by adding at the end the following new subsection:

''(b) COVERAGE OF DEPENDENT EDUCATIONAL EXPENSES IN PUERTO RICO; RELATED TRANSPORTATION.—(1) Appropriations for the Forest Service shall be available to the Secretary of Agriculture to cover the cost of primary and secondary schooling of dependents of Forest Service personnel, who are stationed in Puerto Rico and are subject to transfer and reassignment to other locations in the United States, but not to exceed the costs authorized by the Department of Defense for the same area for dependents of members of the Armed Forces, when it is determined by the Secretary that the schools available in the area of Puerto Rico in which the dependents reside are unable to provide adequately for the education of the dependents.

''(2) If the Secretary determines that the school attended by a dependent described in paragraph (1) is not accessible by public means of transportation on a regular basis, the Secretary may provide, out of funds appropriated for the Forest Service, for the transportation of the dependent between the school and the place of residence of the dependent.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5042, introduced by the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ).

Mr. Speaker, H.R. 5042 amends the Department's Organic Act to allow the Secretary of Agriculture to cover tuition and transportation costs for dependents of Forest Service employees in Puerto Rico.

When the U.S. Naval Base at Roosevelt Roads closed its school, several Forest Service employees lost the only nearby English language school available to their children. H.R. 5042 would allow the Department of Agriculture to reimburse tuition and transportation costs for these employees' dependents. Currently, several other Federal agencies, including the FAA, Department of Justice, and the Coast Guard, have made use of this authority for their employees assigned to Puerto Rico.

The bill should have minimal fiscal impact, as USDA was reimbursing the Department of Defense for the use of their school at the same rate authorized in this bill.

I urge my colleagues to support this legislation.

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

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Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want the record once again to reflect that I am standing in for the ranking member, the gentleman from Texas (Mr. STENHOLM) as he appears in the Committee on Rules arguing for consideration of an amendment that would allow the House to express its support for disaster relief for farmers similar to what was passed earlier by the Senate; $3 billion for disaster relief for farmers was an amount established in the Senate consideration on this matter. Certainly, it was not all that some wanted, but it was viewed as a substantive response to the disaster need to our farmers.

It troubles me that some in the House are talking about no response, talking about doing whatever is necessary for Florida, by the way, I stand in strong support for a response of Florida, but leaving behind the losses faced in other agriculture production areas.

We all have to stand together, and the production loss of my farmers is just as devastating, albeit from other causes than hurricane losses, as the hurricane losses have been to the farmers in southern Florida.

Therefore, I wish the ranking member well in his testimony to the Committee on Rules. We will fully engage this debate tomorrow, but I want the record to reflect that the gentleman from Texas (Mr. STENHOLM) in my opinion is clearly advancing the interest of farmers tonight as he testifies to the Committee on Rules in favor of his disaster legislation, legislation supported by both Republicans and Democrats representing hard-hit areas of production agriculture.

That said, I will now read from the gentleman from Texas (Mr. STENHOLM's) statements on behalf of H.R. 5042: ''Mr. Speaker, I rise in support of H.R. 5042, and I thank the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) for bringing this issue before the House of Representatives and the Committee on Agriculture.

''Until recently, 11 dependents of the Forest Service employees stationed in Puerto Rico attended the DOD Educational Authority schools at the Naval Station Roosevelt Road. However, this naval station closed earlier this year at the direction of Congress. As a result, Federal Forest Service employees assigned to Puerto Rico are faced with limited choices and opportunities for their children's education. This could lead to loss of qualified staff of the Forest Service willing to work in Puerto Rico.

''While other Federal agencies have authority to reimburse their staff for educational expenses incurred by their dependents while assigned to Puerto Rico, the Forest Service has no similar authorization. This legislation, which is supported by the Forest Service, will simply employ authorization to the Forest Service to reimburse its staff for educational expenses incurred by their dependents when assigned to Puerto Rico.

''I encourage Members to support this simple but fair legislative solution.''

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise today in support of H.R. 5042. This legislation is an important step to provide access to stable and quality education for the dependents of our federal employees who are assigned to Puerto Rico. This is a non-controversial bill that will allow the dependents of USDA Forest Service employees to receive convenient, reliable and high quality education when assigned to Puerto Rico.

Until Naval Station Roosevelt Road's closure earlier this year, dependents of Forest Service employees who work at both the Caribbean National Forest and the International Institute of Tropical Forestry (IITF) had attended the DOD Educational Authority (DODEA) schools at NSRR, and the Forest Service reimbursed DODEA for the expense of educating its staff's dependents.

The closest DODEA school, at Fort Buchanan, is approximately a 1 to 1½ hour commute each way from their previous school, and therefore is not a convenient or suitable alternative. Most of the classes taught in Puerto Rico's public schools are in Spanish, and are not acceptable alternatives to English-based education for these federal employee dependents. Private schools, while close by, are an expensive cost to federal employees, and though other federal agencies, such as the U.S. Coast Guard, the Department of Justice, the Federal Aviation Administration and others have authority to reimburse their staff for educational expenses incurred by their dependents at private schools while assigned to Puerto Rico, the Forest Service has no similar authorization.

As a result, federal Forest Service employees assigned to Puerto Rico are faced with limited choices and opportunities for the continuing education of their dependents. This legislation will simply provide authorization to the Forest Service to reimburse its staff for educational expenses incurred by their dependents' when assigned to Puerto Rico.

This bill is budget neutral, as it caps the Forest Service's reimbursement authority to not exceed the per-child amount previously reimbursed to the DODEA. The Forest Service supports this legislation.

I support this legislation and urge my colleagues to vote yes on this important fix to

allow the dependents of federal employees working for the Forest Service to receive the highest educational experience.

In closing, I would like to thank Agriculture Committee Chairman BOB GOODLATTE, ranking member CHARLES STENHOLM, and the committee staff of their assistance in quickly sheparding this bill through their committee and to the floor. I appreciate their help in addressing this important measure.

I urge my fellow members to support this measure, and to ensure that the dependents of our dedicated and professional Forest Service employees in Puerto Rico maintain convenient access to quality education.

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

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5042.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5042.

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

There was no objection.

AUTHORIZING THE SECRETARY OF AGRICULTURE TO SELL OR EXCHANGE CERTAIN ADMINISTRATIVE SITES IN THE OZARK-ST. FRANCIS AND OUACHITA NATIONAL FORESTS

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 33) to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

The Clerk read as follows:

S. 33

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

SECTION 1. SALE OR EXCHANGE OF LAND.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') may, under such terms and conditions as the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the following National Forest System land and improvements:

(1) In the Ouachita National Forest—

(A) tract 1, ''Work Center and two Residences'' (approximately 12.4 acres), as identified on the map entitled ''Ouachita National Forest, Waldron, Arkansas, Work Center and Residences'' and dated July 26, 2000;

(B) tract 2, ''Work Center'' (approximately 10 acres), as identified on the map entitled ''Ouachita National Forest, Booneville, Arkansas, Work Center'' and dated July 26, 2000;

(C) tract 3, ''Residence'' (approximately ½ acre), as identified on the map entitled ''Ouachita National Forest, Glenwood, Arkansas, Residence'' and dated July 26, 2000;

(D) tract 4, ''Work Center'' (approximately 10.12 acres), as identified on the map entitled ''Ouachita National Forest, Thornburg, Arkansas, Work Center'' and dated July 26, 2000;

(E) tract 5, ''Office Building'' (approximately 1.5 acres), as identified on the map entitled ''Ouachita National Forest, Perryville, Arkansas, Office Building'' and dated July 26, 2000;

(F) tract 6, ''Several Buildings, Including Office Space and Equipment Depot'' (approximately 3 acres), as identified on the map entitled ''Ouachita National Forest, Hot Springs, Arkansas, Buildings'' and dated July 26, 2000;

(G) tract 7, ''Isolated Forestland'' (approximately 120 acres), as identified on the map entitled ''Ouachita National Forest, Sunshine, Arkansas, Isolated Forestland'' and dated July 26, 2000;

(H) tract 8, ''Isolated Forestland'' (approximately 40 acres), as identified on the map entitled ''Ouachita National Forest, Sunshine, Arkansas, Isolated Forestland'' and dated July 26, 2000;

(I) tract 9, ''Three Residences'' (approximately 9.89 acres), as identified on the map entitled ''Ouachita National Forest, Heavener, Oklahoma, Three Residences'' and dated July 26, 2000;

(J) tract 10, ''Work Center'' (approximately 38.91 acres), as identified on the map entitled ''Ouachita National Forest, Heavener, Oklahoma, Work Center'' and dated July 26, 2000;

(K) tract 11, ''Residence #1'' (approximately 0.45 acres), as identified on the map entitled ''Ouachita National Forest, Talihina, Oklahoma, Residence #1'' and dated July 26, 2000;

(L) tract 12, ''Residence #2'' (approximately 0.21 acres), as identified on the map entitled ''Ouachita National Forest, Talihina, Oklahoma, Residence #2'' and dated July 26, 2000;

(M) tract 13, ''Work Center'' (approximately 5 acres), as identified on the map entitled ''Ouachita National Forest, Big Cedar, Oklahoma, Work Center'' and dated July 26, 2000;

(N) tract 14, ''Residence'' (approximately 0.5 acres), as identified on the map entitled ''Ouachita National Forest, Idabel, Oklahoma, Residence'' and dated July 26, 2000;

(O) tract 15, ''Residence and Work Center'' (approximately 40 acres), as identified on the map entitled ''Ouachita National Forest, Idabel, Oklahoma, Residence and Work Center'' and dated July 26, 2000; and

(P) tract 16, ''Isolated Forestland'' at sec. 30, T. 2 S., R. 25 W. (approximately 2.08 acres), as identified on the map entitled ''Ouachita National Forest, Mt. Ida, Arkansas, Isolated Forestland'' and dated August 27, 2001.

(2) In the Ozark-St. Francis National Forest—

(A) tract 1, ''Tract 750, District 1, Two Residences, Administrative Office'' (approximately 8.96 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Mountain View, Arkansas, Tract 750, District 1, Two Residences, Administrative Office'' and dated July 26, 2000;

(B) tract 2, ''Tract 2736, District 5, Mountainburg Work Center'' (approximately 1.61 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Mountainburg, Arkansas, Tract 2736, District 5, Mountainburg Work Center'' and dated July 26, 2000;

(C) tract 3, ''Tract 2686, District 6, House'' (approximately 0.31 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Paris, Arkansas, Tract 2686, District 6 House'' and dated July 26, 2000;

(D) tract 4, ''Tract 2807, District 6, House'' (approximately 0.25 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Paris, Arkansas, Tract 2807, District 6, House'' and dated July 26, 2000;

(E) tract 5, ''Tract 2556, District 3, Dover Work Center'' (approximately 2.0 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Dover, Arkansas, Tract 2556, District 3, Dover Work Center'' and dated July 26, 2000;

(F) tract 6, ''Tract 2735, District 2, House'' (approximately 0.514 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Jasper, Arkansas, Tract 2735, District 2, House'' and dated July 26, 2000; and

(G) tract 7, ''Tract 2574, District 2, House'' (approximately 0.75 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Jasper, Arkansas, Tract 2574, District 2, House'' and dated July 26, 2000.

(b) APPLICABLE AUTHORITIES.—Except as otherwise provided in this Act, any sale or exchange of land described in subsection (a) shall be subject to laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(c) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept cash equalization payments in excess of 25 percent of the total value of the land described in subsection (a) from any exchange under subsection (a).

(d) SOLICITATIONS OF OFFERS.—

(1) IN GENERAL.—In carrying out this Act, the Secretary may use solicitations of offers for sale or exchange under this Act on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer under this Act if the Secretary determines that the offer is not adequate or not in the public interest.

SEC. 2. DISPOSITION OF FUNDS.

Any funds received by the Secretary through sale or by cash equalization from an exchange—

(1) shall be deposited into the fund established by Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a); and

(2) shall be available for expenditure, without further Act of appropriation, for the acquisition, construction, or improvement of administrative facilities, land, or interests in land for the national forests in the States of Arkansas and Oklahoma.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 33 which allows the Forest Service to sell or exchange a total of 23 administrative sites on national forest lands in Arkansas and Oklahoma. The funds generated will be used to relocate and renovate offices as well as purchase and replace administrative sites. Overall, the lands covered by the bill total just over 308 acres. The total value of the sites to be sold is $3.375 million.

The total acreage involved requires an act of Congress to allow the agency to sell these lands. The sales will encourage efficient management of the National Forest Service lands in Arkansas and Oklahoma. And I urge my colleagues to support this bill.

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

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for S. 33, a lands exchange bill that was introduced by Senator LINCOLN of Arkansas which passed the Senate on November 11, 2003. Its companion bill in the House, H.R. 3744 was introduced by the gentleman from Arkansas (Mr. ROSS). These two pieces of legislation are the same except for changes to the title and some capitalization.

This legislation authorizes the sale of 16 administrative sites in the Ouachita National Forest and 7 administrative sites in the Ozark-St. Francis National Forest. Because some of the parcels contain buildings which must be maintained for historic preservation purposes, they are expensive to maintain, according to the U.S. Forest Service. In fact, the U.S. Forest Service contends that the cost of maintaining such parcels generally exceeds their value in terms of management. S. 33 allows the monies from the sale of the sites to be used to relocate and renovate offices and to purchase and replace administrative sites.

The Forest Service has indicated that it has no objections to the legislation. For all of these reasons, I urge my colleagues to support this legislation.

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

Mr. GOODLATTE. Mr. Speaker, I welcome back the gentleman from Texas (Mr. STENHOLM) who I hear has been at the Committee on Rules.

Mr. Speaker, I have no further request for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the Senate bill, S. 33.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 33.

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

There was no objection.

PROVIDING FOR THE USE BY THE STATE OF NORTH CAROLINA OF FEDERAL LANDS AT THE OXFORD RESEARCH STATION IN GRANVILLE COUNTY, NORTH CAROLINA

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2119) to provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina, as amended.

The Clerk read as follows:

H.R. 2119

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

SECTION 1. LAND CONVEYANCE, OXFORD RESEARCH STATION, GRANVILLE COUNTY, NORTH CAROLINA.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to a parcel of Federal real property consisting of approximately 4.28 acres and administered as part of the Oxford Research Station in Granville County, North Carolina. The conveyance shall include all improvements, equipment, and resource materials at the research station.

(b) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2119 sponsored by the gentleman from North Carolina (Mr. BUTTERFIELD).

H.R. 2119, as amended, would allow the Forest Service to transfer a currently disused facility in North Carolina to the State of North Carolina. The facility has not been used in several years, and in fact, the land on which it sits was donated by the State of North Carolina to the Federal Government for the purpose of establishing a research station.

The administration supports the proposed transfer, and the State intends to use the facility to do research on invasive species, a very worthwhile project.

I urge my colleagues to support this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, October 5, 2004.

Hon. TOM DAVIS,
Chairman, House Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to share with you a copy of H.R. 2119 as passed by the Committee on Agriculture. As you know, the Committee on Government Reform has received an additional referral of this legislation and I am respectfully requesting that this legislation be discharged from your committee. This legislation, sponsored by Representative Balance would provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina.

As the committee of primary jurisdiction, on September 23, 2004, the Committee on Agriculture favorably reported this legislation by an affirmative voice vote. As this bill prepares to move to the floor I am asking for your discharge to move this legislation forward.

This discharge in no way affects your jurisdiction over the subject matter of the bill and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Government Reform represented on the conference committee.

Thank you for your cooperation in this matter and look forward to working with your committee in the future.

Sincerely,

BOB GOODLATTE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, October 5, 2004.

Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLATTE: Thank you for working with me as you developed H.R. 2119, a bill to provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina. I would like to confirm our mutual understanding with respect to the consideration of H.R. 2119. As you know, the disposal of federal property, including real property, is within the jurisdiction of the Committee on Government Reform.

In the interests of moving this important legislation forward, I will agree to waive sequential consideration of this bill by the Committee on Government Reform. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or other similar legislation. I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the

House debate of this bill. If you have questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

TOM DAVIS,
Chairman.

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

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for H.R. 2119, legislation to allow the Secretary of Agriculture to convey to the State of North Carolina approximately 4.28 acres of Federal lands administered as part of the Oxford Research Station in Granville, North Carolina.

The bill addresses concerns raised by USDA with the original legislation. In a letter dated March 30, 2004, USDA acknowledged the strong, equitable interest the State of North Carolina has in the research station and stated it will gladly exercise the authority provided to convey the Oxford Research to the State of North Carolina once the legislation is enacted.

According to USDA estimates, the amendment will not significantly affect the Federal budget. In fact, the research station is currently unused and actually costs the USDA's property inventory funding to maintain it.

For all these reasons, I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. Mr. Speaker, I thank the chairman, the gentleman from Virginia (Mr. GOODLATTE) and the ranking member, the gentleman from Texas (Mr. STENHOLM) for bringing up this legislation today.

The Oxford Research Station was established in 1912 as a crop and forestry research station. The station facilities include computerized curing barns, office facilities, a shop building, several equipment shelters, a tobacco evaluation facility and underground irrigation systems.

For 92 years, the station's marquee programs have been tobacco-related. Accomplishments at the Oxford Tobacco Research Station include fertility investigations concerning tobacco plants' nutrition; development of the first tobacco varieties with resistance to Granvill Wilt and black shank disease; the invention of tobacco bulk curing barns; genetic studies to develop new varieties resistance to Granville Wilt and black shank diseases; evaluation of crop breeding lines, curing experiments, computerized monitoring and control of humidity and temperatures; and many others.

As long a list of accomplishments that the station has accumulated in its 92 years of service to American agriculture, the station now stands unused by USDA, and American taxpayers are still paying for upkeep and maintenance. An unofficial estimate, Mr. Speaker, from the Animal and Plant Health Inspection Service for fiscal year 2005 is that the station will cost $227,000 for basic upkeep.

Mr. Speaker, one man's trash is another man's treasure. USDA does not want or need the Oxford Research Station, but the North Carolina Department of Agriculture does. If the facility is conveyed to the North Carolina Department of Agriculture, the State will move its entire biological control program to the station. The State intends to use the quarantine facilities to research invasive species without risk of introducing them to the national environment of our State.

Among the species to be studied include the hemlock wooly adelgid, an insect that has been identified in Public Law 108–148, the President's Healthy Forest Initiative, as a forest-damaging insect. The facility will also research control methods of the Sudden Oak Death Fungus.

The people of North Carolina, Mr. Speaker, would be grateful for the passage of this legislation.

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

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I congratulate the gentleman from North Carolina on bringing forward a fine piece of legislation. I thank my colleague, the gentleman from Texas (Mr. STENHOLM), the ranking member, for his work on this and other bills that we brought before the House tonight. I urge my colleagues to support this legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 2119, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to provide for the conveyance of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina, to the State of North Carolina.''.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2119.

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

There was no objection.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

(Mr. NORWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Ms. BALDWIN. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from California (Ms. WOOLSEY).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wisconsin?

There was no objection.

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes.

Ms. BALDWIN. Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. PALLONE) for coordinating a discussion of a very important topic as we ask ourselves, ''In the arena of health care, are we better off now than we were 4 years ago?''

In order to answer this question, are we better off, I need look no further than the innumerable, and often heartbreaking, letters and calls that I receive from people of Wisconsin's 2nd Congressional District every single day.

I get letters from seniors who detail the unbelievable choices they are forced to make, deciding whether to use their limited and fixed incomes for food or prescription drugs.

I get letters from small business owners who are agonizing over the fact that they can no longer afford the costs associated with offering insurance to their employees.

I get letters from countless people who have lost their health care coverage and are wondering where they can turn for the needed care or how they will once again be able to get coverage, given a preexisting condition.

I get letters from young mothers who spend sleepless nights worried that the rising health care premiums are fast becoming unaffordable and they might soon join the ranks of America's 45 million uninsured.

I get letters from parents, frustrated that their children's treatment for a mental illness is not covered by their insurance.

I get letters from parents of children with diabetes who cannot believe that their own government's restrictive stem cell policy is standing in the way of a possible cure.

So when asked, ''Are we better off now than we were 4 years ago?'' the answer is a resounding no. But if these personal stories are not enough proof for my colleagues, let us look at some recent statistics.

Today, according to the U.S. Census Bureau, a record-breaking 45 million Americans do not have health insurance coverage. Millions more are underinsured. This is the highest level of uninsured in our Nation's history, and it grew by 5.2 million people over the past 4 years.

Health care costs have continued to skyrocket during the last 4 years as well. The prices for prescription drugs have seen double-digit increases in the last 4 years.

The average family's share of health insurance premiums has risen by almost $1,000 in the last 4 years, a shocking 57 percent increase. In fact, just recently, the Kaiser Family Foundation reported that health insurance premiums rose again between 2003 and 2004, the fourth straight year of double-digit increases.

While health care costs have been growing, the percentage of Americans receiving health care coverage through their employers has dropped.

What has been the Republican response to this health care crisis of rising numbers of uninsured and rising costs? Unfortunately, the Republican response has been to put forward the same old proposals as they have in years past: tort reform, association health plans, the health savings accounts, proposals that study after study have shown to be ineffective in holding down health care costs and also ineffective in providing coverage to the uninsured.

Republicans have ignored the pleas of our seniors, calling on us to stop skyrocketing costs of prescription drugs, and have instead created a prescription drug benefit in Medicare that does more to help drug companies than it does to help senior citizens.

The Republicans have failed to stop $1.1 billion in State child health insurance program funding from being taken from the States, funding that could have been used to provide health insurance to 750,000 children in America.

Given this dismal 4-year track record, it is obvious that we need a new approach to address this health care crisis, one that would truly control costs and expand access.

I join my fellow Democrats in telling America that we are ready to lead in a new direction, one that would make quality health care affordable and available and assure health care security for every American.

The SPEAKER pro tempore (Mr. MURPHY). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

(Mr. OSBORNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. PEARCE. Mr. Speaker, I request to address the House for 5 minutes out of turn.

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

There was no objection.

DEMOCRAT NOMINEE FOR PRESIDENT CONTINUES TO DEBATE WITH HIMSELF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, as I contemplate the debate from last week, I realize that again the Democrat nominee for President, Mr. KERRY, continues to debate with himself.

I was very amazed to learn throughout the debate that he was talking about the need for multilateral action, until it came to the one circumstance where we are engaged in multilateral action in which he felt we should go back to bilateral action. Now, that is, of course, in the case of Korea, and we found that the Mainland Chinese have been very, very effective at working with us to back the North Koreans down from the bluster and the rhetoric that they have thrown in front of the world stage for the past couple of years. Amazingly, in that circumstance, Mr. KERRY wants the Chinese to be quiet, and he wants the U.S. to go back to bilateral negotiations with the North Koreans.

What that accomplishes is to give the North Koreans standing which they have not had in the past 2 years under the Bush doctrine. We give a terrorist state, a state that is starving its own people, a state that is incapable of making the changes in the government that are required to bring the nation into this century, and he would give them standing while moving the Mainland Chinese and our other allies off to the side.

He did not explain that, and it was in complete contradiction with everything else he brought up during the debate. So, again, we find that the gentleman from Massachusetts continues to debate himself.

I contemplated also his need for a global test. From my own perspective, when the President says that we will not ask permission to defend America, that is the clarity and plainness that most Americans want, and so this global test for me is fraught with questions. Which test would we apply? Which of our allies? Would it be France? We want France's approval before we go and do some action that would prevent attacks on U.S. citizens here on American soil? Again, I have very deep questions about the gentleman from Massachusetts' plan.

One of the most stunning things that I watched in the debate, Mr. Speaker, was the assumption that Mr. KERRY has to sell, and that is, that the war in Iraq is a mistake. He says, on the one hand, it is a mistake, and on the other hand, he is going to win it. But I will tell my colleagues, if you convince enough people in this country to vote for the gentleman who says it is a mistake, those people have to believe the war is a mistake because much of his campaign is based on that presumption and that willingness to change the course in this country; but if he convinces the Americans that it is a mistake, how then is he going to turn on his heels against the will of the American public who has sided with him and then win the war?

Mr. Speaker, I would say that he has no intention of winning the war, that instead he is going to go to those allies who say that the war is a mistake, whether it be Syria, whether it be France, whether it be Russia, whether it be any of the nations who were involved in the Oil-For-Food scandal that took $10 billion out of money that should have bought food for hungry Iraqis, and he would go to them and ask them their opinion for this global test that he has suggested.

Mr. Speaker, I would say that within weeks the gentleman from Massachusetts would unilaterally pull out of Iraq, leaving all of our allies in that region in very deep distress.

If the United States pulls out of the Middle East, I think that we stand to lose our friends, the Saudi Arabians; our friends, the Kuwaitis; the Jordanians. I think Pakistan would be at risk. I think Syria would be at risk.

I think that the gentleman from Massachusetts has not clearly contemplated the effects of declaring that this war is a mistake and being willing to ridicule our friends, being willing to ridicule the prime minister from that war-torn region who is putting his neck on the line every single day, and the gentleman from Massachusetts declares him to be a puppet.

We have seen in Pakistan the President, Musharraf, has twice just barely escaped assassination attempts. That region is very unstable, and we have one of the candidates for President of

the United States who is willing to say that this coalition, these partners of ours, are bribed and coerced. Where is he going to find the people to become a part of this multinational cooperation when he makes those kinds of statements?

I think that the gentleman from Massachusetts has ill-thought-out his words, has ill-established a doctrine and stands the chance of ruining America's hopes for world peace.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mrs. CAPPS. Mr. Speaker, I would like permission to speak in place of my colleague, the gentleman from Illinois (Mr. EMANUEL).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, as we come to the end of another Congress, as the country stands ready to pick a new President for the next 4 years, it is appropriate to ask is America better off today than it was 4 years ago.

In terms of health care, the answer is clearly no. Since 2001, as the economy has weakened, the cost of insurance has risen. These two factors have increased the number of uninsured Americans. There are now over 5 million more Americans without insurance than at the beginning of the Bush administration. That is right, 5.2 million more.

In 2004, insurance premiums went up 11 percent, and at the same time inflation and, more importantly, workers' wages have gone up by less than 3 percent. This unaffordable increase comes on top of an increase of almost 14 percent in 2003, 13 percent in 2002, almost 11 percent in 2001. Each of these increases far outstrips pay raises. So in that time, a family's share of health insurance premiums have gone up $1,000, a whopping 57 percent.

With such a weak economy and without sufficient increases in wages, these increases are devastating to a working family; but this administration, this congressional leadership have not done a thing to help. In fact, they have made it harder to help people struggling with the high cost of insurance.

Just last week, the administration took over $1 billion in unused children's health insurance funds away from the States.

□ 2045

This money could have easily been redistributed to shore up State programs and to expand coverage. And despite the continuing State budget crises, the administration has refused to grant more fiscal relief.

These actions and the refusal of the administration to put more funding into Medicaid have put unbelievable pressure on States to cut back their insurance programs. In 2004, 19 States cut benefits. Twenty have increased copayments. In 2003, 18 States cut benefits and 17 increased copayments. And as of right now, nine more States plan to take these steps in the coming year. This is all happening because of the administration's refusal to help.

In addition, under the President's watch, prescription drug prices have skyrocketed. The administration did nothing to reduce these prices or to help people pay for them. Last year, the Republican leadership and this President shoved a Medicare bill through the House in the dead of night. That bill, written by the prescription drug and private insurance companies, offered a sham prescription drug benefit.

The President and congressional leadership blocked Medicare from negotiating lower prices for Medicare beneficiaries in the bill, and the President has fought efforts to allow seniors to import cheaper prescription medications, despite bipartisan support. Their answer was the so-called prescription drug discount card, which has proved to be a failure.

Reports done by the House Committee on Government Reform, and I did them in my district, have exposed that the prices with these cards can be higher than Canadian drug prices, and they are much higher than the prices seniors could get if Medicare would negotiate on behalf of America's 40 million seniors.

But this is not even the worst of it. The President's bill has set the stage to privatize Medicare. It shovels an additional $46 billion to managed care companies in order to push seniors into HMOs. And the President has asked seniors to pay for that by increasing their own premiums by 17 percent. The media reports that the administration is hiding bigger premium increases down the road.

It seems pretty clear to me that America is not better off than it was 4 years ago. Democrats want to lower the cost of health insurance for small businesses through a new tax credit. We want to extend health insurance coverage to 7½ million parents through Medicaid and CHIP, and we want to help older Americans who cannot afford to purchase health insurance so they can buy into Medicare.

Democrats have a New Partnership For America's Future, one that ensures our security and lays the foundation for a strong and prosperous economy, and that is what we are fighting for.

The SPEAKER pro tempore (Mr. MURPHY). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent to proceed with my 5 minutes at this time.

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

There was no objection.

SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, looking forward to 2005, there are few more important issues for government than overspending and overpromising. Unless we get spending under control, government will lose the ability to do much of anything else except manage our indebtedness. Already we pay nearly $300 billion a year, approaching 12 percent of our total expenditures for interest on the debt. That is $300 billion a year on interest. And interest rates are going up, our debt is going up, and that cost is rising very rapidly.

This fight will influence the kind of lives that our kids have. Why do we not pay attention to the problems of the insolvency of Social Security and Medicare? Why do we not look at the problems that this kind of overpromising and overspending are going to have on the economy of the United States? The challenge facing Congress will be to restore our reputation for fiscal restraint.

The Federal Government is now running the largest budget deficit in our history, which is estimated to be $574 billion for the fiscal year that just ended September 30, and we will soon have to increase the $7.384 trillion statutory debt limit in order to accommodate this borrowing, which our children and our grandchildren are ultimately going to have to assume the responsibility for.

I cannot think of harsher words than maybe unconscionable, maybe too interested in our political futures to do what is necessary to deal with these tough problems. This overexpenditure, the debt, is only a small part of the total problem. Overpromising is the larger issue, and that deals with the chart I have before us tonight, and that is this massive unfunded liability.

The deficit and debt, unfortunately, are only the beginning of our financial

problems. These figures come from Dr. Tom Savings, who is a professor of economics at Texas A&M and also a trustee for both Social Security and Medicare. He has calculated that the total unfunded liabilities for the three programs of Medicare, Medicaid, and Social Security are now $73.5 trillion.

That means to accommodate our promises we are going to have to come up with $73 billion, put it in our savings account, and that is going to draw interest, at least to accommodate inflation, to keep the promises. There is no way we can do this. We are headed for a reality of the financial sky is falling on the United States Congress.

The issues of changing the programs have been demagogued so that Republicans can accuse Democrats when they suggest any change, and Democrats can accuse the Republicans of ruining Social Security and Medicare.

In conclusion, let me briefly run down through the unfunded liabilities of the different parts. Medicare part A, which is mostly the hospitals, is a $21.8 trillion unfunded liability, the amount you would have to put in an account today. Medicare part B, $23 trillion. That is mostly doctors. Medicare part D, the new prescription drug program, adds to the unfunded liability $16.6 trillion. Social Security is running at about $12 trillion.

We have got to deal with these problems. Maybe next year, after the election, whichever President is elected, we will have the guts, we will have the intestinal fortitude to move ahead in trying to solve and make changes to these programs so that we can continue what we have promised the American people. They are important programs. There is going to be dramatic changes. The longer we wait, the more drastic the changes will have to be. That was the conclusion of the bipartisan task force on Social Security that I chaired.

The challenge is great for this body, the Senate, and the White House; and I ask, Mr. Speaker, that the electorate of this Nation ask those candidates running for office, for the Congress, for the Senate, for the Presidency what they are going to do about these huge problems facing our kids and our grandkids.

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN submitted the following conference report and statement on the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–734)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850) ''making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $25,600,000, to remain available until expended: Provided, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: Provided further, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: Provided further, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: Provided further, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than $1,200,000 of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: Provided, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $190,800,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,952,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $84,948,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,699,000, of which not to exceed $1,500 is for official reception and representation expenses; and $56,201,000, to remain available until September 30, 2006, for capital improvements for District of Columbia courthouse facilities: Provided, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of Funds'' found at 48 CFR 52.232–18: Provided further, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: Provided further, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: Provided further, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided under this heading among the items and entities funded under this heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $38,500,000, to remain available until expended: Provided, That the funds provided in this Act under the heading ''Federal Payment to the District of Columbia Courts'' (other than the $56,201,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: Provided further, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading ''Federal Payment to the District of Columbia Courts'' (other than the $56,201,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for

obligations incurred during any fiscal year: Provided further, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: Provided futher, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia and the Public Defender Service for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $180,000,000, of which not to exceed $2,000 is for official reception and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which $110,853,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $39,314,000 shall be available to the Pretrial Services Agency; and of which $29,833,000 shall be transferred to the Public Defender Service for the District of Columbia: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: Provided further, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: Provided further, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: Provided further, That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the D.C. Government for space and services provided on a cost reimbursable basis: Provided further, That the Public Defender Service is authorized to charge fees to cover costs of materials distributed to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding section 3302 of title 31, United States Code, said fees shall be credited to the Public Defender Service account to be available for use without further appropriation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $4,800,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: Provided, That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE

For a Federal payment to the District of Columbia Department of Transportation, $3,000,000, to remain available until September 30, 2006, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, $1,300,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR THE UNIFIED COMMUNICATIONS CENTER

For a Federal payment to the District of Columbia, $6,000,000, to remain available until expended, for the Unified Communications Center.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

For a Federal payment to the District of Columbia Department of Transportation, $2,500,000, of which $1,000,000 shall be allocated to implement a downtown circulator transit system, and of which $1,500,000 shall be to offset a portion of the District of Columbia's allocated operating subsidy payment to the Washington Metropolitan Area Transit Authority.

FEDERAL PAYMENT FOR PUBLIC SCHOOL LIBRARIES

For a Federal payment to the District of Columbia Public Schools, $6,000,000, to remain available until expended, for a public school library enhancement program: Provided, That the District of Columbia Public Schools provides a 100 percent match for this payment: Provided further, That the Federal portion is for the acquisition of library resources: Provided further, That the matching portion is for any necessary facilities upgrades.

FEDERAL PAYMENT FOR THE FAMILY LITERACY PROGRAM

For a Federal payment to the District of Columbia, $1,000,000, for a Family Literacy Program to address the needs of literacy-challenged parents while endowing their children with an appreciation for literacy and strengthening familial ties: Provided, That the District of Columbia shall provide a 100 percent match with local funds as a condition of receiving this payment.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for foster care improvements, $5,000,000, to remain available until expended: Provided, That $3,250,000 shall be for the Child and Family Services Agency, of which $2,000,000 shall be for the early intervention program to provide intensive and immediate services for foster children; of which $750,000 shall be for the emergency support fund to purchase services or technology necessary to allow children to remain in the care of an approved and licensed family member; of which $500,000 shall be for technology upgrades: Provided further, That $1,250,000 shall be for the Department of Mental Health to provide all court-ordered or agency-required mental health screenings, assessments and treatments for children under the supervision of the Child and Family Services Agency: Provided further, That $500,000 shall be for the Washington Metropolitan Council of Governments, to continue a program in conjunction with the Foster and Adoptive Parents Advocacy Center, to provide respite care for and recruitment of foster parents: Provided further, That these Federal funds shall supplement and not supplant local funds for the purposes described under this heading.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, $32,500,000: Provided, That these funds shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided further, That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate a report on the activities to be carried out with such funds no later than March 15, 2005.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a school improvement program in the District of Columbia, $40,000,000, to be allocated as follows: for the District of Columbia Public Schools, $13,000,000 to improve public school education in the District of Columbia; for the State Education Office, $13,000,000 to expand quality public charter schools in the District of Columbia, to remain available until September 30, 2006; for the Secretary of the Department of Education, $14,000,000 to provide opportunity scholarships for students in the District of Columbia in accordance with division C, title III of the District of Columbia Appropriations Act, 2004 (Public Law 108–199, 118 Stat. 126), of which up to $1,000,000 may be used to administer and fund assessments: Provided, That of the $13,000,000 for the District of Columbia Public Schools, not less than $2,000,000 shall be for a new incentive fund to reward high performing or significantly improved public schools; not less than $2,000,000 shall be to support the Transformation School Initiative directed to schools in need of improvement: Provided further, That of the remaining amounts, the Superintendent of the District of Columbia Public Schools shall use such sums as necessary to provide grants to schools which are not eligible for other programs referenced under this heading, and to contract for management consulting services and implement recommended reforms: Provided further, That the Comptroller General shall conduct a financial audit of the District of Columbia Public Schools: Provided further, That of the $13,000,000 provided for public charter schools in the District of Columbia, $2,000,000 shall be for the City Build Initiative to create neighborhood-based charter schools; $2,750,000 shall be for the Direct Loan Fund for Charter Schools; $150,000 shall be for administrative expenses of the Office of Charter School Financing and Support to expand outreach and support of charter schools; $100,000 shall be for the D.C. Public Charter School Association to enhance the quality of charter schools; $4,000,000 shall be for the development of an incubator facility for public charter schools; $2,000,000 shall be for a charter school college preparatory program; and $2,000,000 shall be for a new incentive fund to reward high performing or significantly improved public charter schools: Provided further, That the District of Columbia government shall establish a dedicated account for the Office of Charter School Financing and Support (the Office) that shall consist of the Federal funds appropriated in this Act, any subsequent appropriations, any unobligated balances from prior fiscal years, any additional grants, and any interest and principal derived from loans made to Charter Schools, and repayment of dollars utilized to support credit enhancement earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Credit Enhancement Program, Direct Loan Fund Grant Program, and any other charter school financing under the management of the Office: Provided further, That in this and

subsequent fiscal years the Office of the Chief Financial Officer shall conduct an annual audit of the funds expended by the Office and provide an annual financial report to the Mayor, the Council of the District of Columbia, the Office of the District of Columbia Treasurer and the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than $250,000 of the total amount appropriated for this program may be used for administrative expenses and training expenses related to the cost of the National Charter School Conference(s) to be hosted by December 2006; and no more than 5 percent of the funds appropriated for the direct loan fund may be used for administrative expenses related to the administration and annual audit of the direct loan, grant, and credit enhancement programs.

FEDERAL PAYMENT FOR BIOTERRORISM AND FORENSICS LABORATORY

For a Federal payment to the District of Columbia, $8,000,000, to remain available until September 30, 2006, for design, planning, and procurement costs associated with the construction of a bioterrorism and forensics laboratory: Provided, That the District of Columbia shall provide an additional $2,300,000 with local funds as a condition of receiving this payment.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: Provided, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a) and provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2005 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,199,114,000 (of which $4,165,485,000 shall be from local funds, $1,687,554,000 shall be from Federal grant funds, $332,761,000 shall be from other funds, and $13,314,000 shall be from private funds), in addition, $114,900,000 from funds previously appropriated in this Act as Federal payments: Provided further, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: Provided further, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: Provided further, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2005, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $416,069,000 (including $261,068,000 from local funds, $100,256,000 from Federal grant funds, and $54,745,000 from other funds), in addition, $32,500,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the Chief Financial Officer of the District of Columbia'', and $500,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Foster Care Improvements in the District of Columbia'' shall be available to the Metropolitan Washington Council of Governments: Provided, That not to exceed $9,300 for the Mayor, $9,300 for the Chairman of the Council of the District of Columbia, $9,300 for the City Administrator, and $9,300 for the Office of the Chief Financial Officer shall be available from this appropriation for official reception and representation expenses: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $334,745,000 (including $55,764,000 from local funds, $93,050,000 from Federal grant funds, $185,806,000 from other funds, and $125,000 from private funds), of which $13,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11–134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): Provided, That such funds are available for acquiring services provided by the General Services Administration: Provided further, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia: Provided further, That local funds in the amount of $1,200,000 shall be appropriated for the Excel Institute.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $797,423,000 (including $760,849,000 from local funds, $6,599,000 from Federal grant funds, $29,966,000 from other funds, and $9,000 from private funds), in addition, $1,300,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the Criminal Justice Coordinating Council'': Provided, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFER OF FUNDS)

Public education system, including the development of national defense education programs, $1,223,424,000 (including $1,058,709,000 from local funds, $151,978,000 from Federal grant funds, $8,957,000 from other funds, $3,780,000 from private funds) in addition, $25,600,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Resident Tuition Support'', $6,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Public School Libaries'', and $26,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—$888,944,000 (including $760,494,000 from local funds, $117,450,000 from Federal grant funds, $7,330,000 from other funds, $3,670,000 from private funds), in addition, $6,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Public School Libraries'' shall be available for District of Columbia Public Schools and $13,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' shall be available for District of Columbia Public Schools: Provided, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: Provided further, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2005 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2006: Provided further, That not to exceed $9,300 for the Superintendent of Schools shall be available from this appropriation for official reception and representation expenses.

(2) TEACHERS' RETIREMENT FUND.—$9,200,000 from local funds shall be available for the Teacher's Retirement Fund.

(3) STATE EDUCATION OFFICE.—$43,104,000 (including $10,015,000 from local funds, $32,913,000 from Federal grant funds, and $176,000 from other funds), in addition, $25,600,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Resident Tuition Support'' shall be available for the State Education Office and $13,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' shall be available for the State Education Office: Provided, That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2006 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(4) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—$196,802,000 from local funds shall be available for District of Columbia public charter schools: Provided, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: Provided further, That if the entirety of this allocation has not been provided as

payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(2)): Provided further, That of the amounts made available to District of Columbia public charter schools, $100,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(5) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(5)): Provided further, That $750,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2005, an amount equal to 25 percent of the total amount of the local funds appropriations request provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2006.

(5) UNIVERSITY OF THE DISTRICT OF COLUMBIA SUBSIDY.—$49,602,000 from local funds shall be available for the University of the District of Columbia subsidy: Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2006: Provided further, That not to exceed $9,300 for the President of the University of the District of Columbia shall be available from this appropriation for official reception and representation expenses.

(6) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—$30,831,000 (including $28,978,000 from local funds, $1,093,000 from Federal grant funds, $651,000 from other funds, and $110,000 from private funds) shall be available for the District of Columbia Public Libraries: Provided, That not to exceed $7,500 for the Public Librarian shall be available from this appropriation for official reception and representation expenses.

(7) COMMISSION ON THE ARTS AND HUMANITIES.—$4,941,000 (including $3,618,000 from local funds, $523,000 from Federal grant funds, and $800,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $2,533,825,000 (including $1,165,314,000 from local funds, $1,331,670,000 from Federal grant funds, $27,441,000 from other funds, $9,400,000 from private funds), in addition, $4,500,000 from funds previously appropriated in this Act under the heading ''Federal Payment to Foster Care Improvements in the District of Columbia'': Provided, That $29,600,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That no less than $8,498,720, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, effective July 8, 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004), to be used exclusively for the purpose of the Choice in Drug Treatment program, established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003), of which $7,500,000 shall be provided from local funds: Provided further, That none of the $8,498,720 for the Choice in Drug Treatment program shall be used by the Department of Health's Addiction Prevention and Recovery Administration to provide youth residential treatment services or youth outpatient treatment services: Provided further, That no less than $2,000,000 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth residential treatment services: Provided further, That no less than $1,575,416 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth outpatient treatment services, of which $750,000 shall be made available exclusively to provide intensive outpatient treatment slots, outpatient treatment slots, and other program costs for youth in the care of the Youth Services Administration: Provided further, That no less than $1,400,000 shall be used by the Department of Health's Addiction Prevention and Recovery Administration to fund a Child and Family Services Agency pilot project entitled Family Treatment Court: Provided further, That $1,200,000 of local funds, to remain available until expended, shall be deposited in the Adoption Voucher Fund, established pursuant to section 3805(a) of the Adoption Voucher Fund Act of 2000, effective October 19, 2000 (D.C. Law 13–172; D.C. Official Code, sec. 4–344(a)), to be used exclusively for the purposes set forth in section 3805(b) of the Adoption Voucher Fund Act (D.C. Official Code, sec. 4–344(b)): Provided further, That no less than $300,000 shall be used by the Department of Health's Environmental Health Administration to operate the Total Maximum Daily Load program: Provided further, That no less than $1,268,500 shall be used by the Department of Health's Environmental Health Administration to operate its air quality programs, of which no less than $242,000 shall be used to fund 4 full-time air quality employees: Provided further, That the Department of Human Services, Youth Services Administration shall not expend any appropriated fiscal year 2005 funds until the Mayor has submitted to the Council by September 30, 2004, a plan, including time lines, to close the Oak Hill Youth Center at the earliest feasible date. All of the above proviso amounts in this heading relate back to and are a subset of the first-referenced appropriation amount of $2,533,825,000.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $331,936,000 (including $312,035,000 from local funds, $4,000,000 from Federal funds, and $15,901,000 from other funds), in addition, $2,500,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Transportation Assistance'': Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

CASH RESERVE

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Official Code, sec. 47–392.02(j)(2)), $50,000,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $347,700,000 from local funds.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $4,000,000 from local funds.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $11,252,000 from local funds.

SETTLEMENTS AND JUDGMENTS

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $20,270,000 from local funds: Provided, That this appropriation shall not be construed as modifying or affecting the provisions of section 303 of this Act.

WILSON BUILDING

For expenses associated with the John A. Wilson building, $3,633,000 from local funds.

WORKFORCE INVESTMENTS

For workforce investments, $38,114,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable: Provided, That of this amount $3,548,000 shall remain available until expended to meet the requirements of the Compensation Agreement Between the District of Columbia Government Units 1 and 2 Approval Resolution of 2004, effective February 17, 2004 (Res. 15–459; 51 DCR 2325).

NON-DEPARTMENTAL AGENCY

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $13,946,000 (including $4,000,000 from local funds and $9,946,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this Act: Provided, That $4,000,000 from local funds shall be for anticipated costs associated with the No Child Left Behind Act.

EMERGENCY PLANNING AND SECURITY FUND

For Emergency Planning and Security Fund, $15,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia''.

OLD CONVENTION CENTER DEMOLITION RESERVE

For the Old Convention Center Demolition Reserve, such amounts as may be necessary, not to exceed $11,000,000, from the District's general fund balance.

TAX INCREMENT FINANCING PROGRAM

For a Tax Increment Financing Program, such amounts as are necessary to meet the Tax Increment Financing requirements, not to exceed $9,710,000 from the District's general fund balance.

EQUIPMENT LEASE OPERATING

For Equipment Lease Operating $23,109,000 from local funds: Provided, That for equipment leases, the Mayor may finance $19,453,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the emergency reserve fund and the contingency reserve fund under section 450A of the

District of Columbia Home Rule Act (Public Law 98–198, as amended; D.C. Official Code, sec. 1–204.50a), such additional amounts from the District's general fund balance as are necessary to meet the balance requirements for such funds under section 450A.

FAMILY LITERACY

From funds previously appropriated in this Act under the heading ''Federal Payment for the Family Literacy Program'', $1,000,000.

PAY-AS-YOU-GO CAPITAL

For Pay-As-You-Go Capital funds in lieu of capital financing, $6,531,000 from local funds, to be transferred to the Capital Fund.

PAY-AS-YOU-GO CONTINGENCY

For Pay-As-You-Go Contingency Fund, $43,137,000, subject to the Criteria for Spending Pay-As-You-Go Funding Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Title I of Bill 15–768), there are authorized to be transferred from the contingency fund to certain other headings of this Act as necessary to carry out the purposes of this Act. Expenditures from the Pay-As-You-Go Contingency Fund shall be subject to the approval of the Council by resolution.

REVISED REVENUE ESTIMATE CONTINGENCY PRIORITY

If the Chief Financial Officer for the District of Columbia certifies through a revised revenue estimate that funds are available from local funds, such available funds shall be expended as provided in the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library Expenditures Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Bill 15–768), including up to $2,000,000 to the Office of Property Management, up to $1,200,000 to the District of Columbia Public Library, up to $256,000 to the D.C. Police and Firefighters Retirement and Relief Board, and $132,600 for the Police and Fire Clinic.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For operation of the Water and Sewer Authority, $287,206,000 from other funds, of which $15,180,402 shall be apportioned for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund. For construction projects, $371,040,000, to be distributed as follows: $181,656,000 for the Blue Plains Wastewater Treatment Plant, $43,800,000 for the sewer program, $9,118,000 for the stormwater program, $122,627,000 for the water program, and $13,839,000 for the capital equipment program; in addition, $4,800,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority'': Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $47,972,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,792,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3–1301 et seq. and sec. 22–1716 et seq.), $247,000,000 from other funds: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board: Provided further, That the Lottery and Charitable Games Enterprise Fund is hereby authorized to make transfers to the general fund of the District of Columbia, in excess of this appropriation, if such funds are available for transfer.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $7,322,000 from other funds: Provided, That the paragraph under the heading ''Sports and Entertainment Commission'' in Public Law 108–199 (118 Stat. 125) is amended by striking the term ''local funds'' and inserting the term ''other funds'' in its place.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1–711), $15,277,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $77,176,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $7,850,000 from other funds.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

For the University of the District of Columbia, $85,102,000 (including, $49,603,000 from local funds previously appropriated in this Act under the heading ''Public Education Systems'', $15,192,000 from Federal funds, $19,434,000 from other funds, and $873,000 from private funds): Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

UNEMPLOYMENT INSURANCE TRUST FUND

For the Unemployment Insurance Trust Fund, $180,000,000 from other funds.

OTHER POST EMPLOYEE BENEFITS TRUST FUND

For the Other Post Employee Benefits Trust Fund, $953,000 from other funds.

DISTRICT OF COLUMBIA PUBLIC LIBRARY TRUST FUND

For the District of Columbia Public Library Trust Fund, $17,000 from other funds: Provided, That $7,000 shall be for the Theodore W. Noyes Trust Fund: Provided further, That $10,000 shall be for the Peabody Trust Fund.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,087,649,000, of which $839,898,000 shall be from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal grant funds, and a rescission of $361,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $725,886,000, to remain available until expended; in addition, $6,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for the Unified Communications Center'', $3,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for the Anacostia Waterfront Initiative'', and $8,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Bioterrorism and Forensics Laboratory'': Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That the Office of the Chief Technology Officer of the District of Columbia shall implement the following information technology projects on behalf of the District of Columbia Public Schools: Student Information System (project number T2240), Student Information System PCS (project number T2241), Enterprise Resource Planning (project number T2242), E-Rate (project number T2243), and SETS Expansion PCS (project number T2244).

TITLE III—GENERAL PROVISIONS

SEC. 301. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 302. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor, or, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 303. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly provided herein.

SEC. 305. (a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 306. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts

in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center, unless the Committee on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of $1,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

SEC. 307. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 308. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204l.22(3)), shall apply with respect to the compensation of District of Columbia employees. For pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 309. No later than 30 days after the end of the first quarter of fiscal year 2005, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2005 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2006. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 310. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 311. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 312. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 313. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 314. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts appropriated in this Act, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 315. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term ''official duties'' does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2005, an inventory, as of September 30, 2004, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 316. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2005 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 317. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 318. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 319. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 320. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 321. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a ''conscience clause'' which provides exceptions for religious beliefs and moral convictions.

SEC. 322. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 323. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for fiscal year 2005 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) This section shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 324. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93–030–(PA) and 93–031–(PA).

SEC. 325. None of the Federal funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 326. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(1) and (2)). The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(3)).

SEC. 327. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 328. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia. As part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification. The Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA. The Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 329. Sections 11–1701(b)(5), 11–1704(b), 11–1723(b), 11–2102(a)(2), and the second and third sentences of Section 11–1724, of the District of Columbia Official Code, are hereby repealed.

SEC. 330. Section 11–1728 of the District of Columbia Official Code, is amended to read as follows:

"SEC. 11–1728. RECRUITMENT AND TRAINING OF PERSONNEL AND TRAVEL.

''(a) The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia Courts and for providing in-service training for court personnel.

''(b) Travel under Federal supply schedules is authorized for the travel of court personnel on official business. The joint committee shall prescribe such requirements, conditions and restrictions for such travel as it considers appropriate, and shall include policies and procedures for preventing abuses of that travel authority.''.

SEC. 331. The amount appropriated by this Act may be increased by no more than $15,000,000 from funds identified in the comprehensive annual financial report as the District's fiscal year 2004 unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District's long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) Unanticipated one-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Unanticipated program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

(5) The amounts may be obligated and expended only if approved by the Committees on Appropriations of the House of Representatives and Senate in advance of any obligation or expenditure.

SEC. 332. Section 450A of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code, sec. 1–204.50a), is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

''(1) IN GENERAL.—There is established an emergency cash reserve fund ('emergency reserve fund') as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall make a deposit in cash not later than October 1 of each fiscal year of such an amount as may be required to maintain a balance in the fund of at least 2 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (a)(7).''.

(B) Paragraph (2) is amended to read as follows:

''(2) IN GENERAL.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.''.

(C) Paragraph (7) is amended to read as follows:

''(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.''.

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

''(1) IN GENERAL.—There is established a contingency cash reserve fund ('contingency reserve fund') as an interest-bearing account, separate from other accounts in the General Fund, into which the Mayor shall make a deposit in cash not later than October 1 of each fiscal year of such amount as may be required to maintain a balance in the fund of at least 4 percent of the

operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (b)(6).''.

(B) Paragraph (2) is amended to read as follows:

''(2) IN GENERAL.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.''.

(C) Paragraph (6) is amended to read as follows:

''(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.''.

SEC. 333. For fiscal year 2005, the Chief Financial Officer shall re-calculate the emergency and contingency cash reserve funds amount established by Section 450A of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code, sec. 1–204.50a), as amended by this Act and is authorized to transfer funds between the emergency and contingency cash reserve funds to reach the required percentages: Provided, That for fiscal year 2005, the Chief Financial Officer may transfer funds from the emergency and contingency cash reserve funds to the general fund of the District of Columbia to the extent that such funds are not necessary to meet the requirements established for each fund: Provided further, That the Chief Financial Officer may not transfer funds from the emergency or the contingency reserve funds to the extent that such a transfer would lower the fiscal year 2005 total percentage below 7 percent of operating expenditures, as amended by this Act.

SEC. 334. (a) Section 6 of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 (sec. 5–732, D.C. Official Code) is amended by striking the period at the end of the first sentence and inserting the following: '', and for the administrative costs associated with making such benefit payments.''.

(b) The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 335. (a) CONTINUING AVAILABILITY OF AMOUNTS IN CHARTER SCHOOL FUND.—Section 2403(b)(1) of the District of Columbia School Reform Act of 1995 (sec. 38–1804.03(b)(1), D.C. Official Code) is amended by adding at the end the following new sentence: ''Amounts in the Charter School Fund shall remain available until expended, and any amounts in the Fund remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia.''.

(b) AVAILABILITY OF ADDITIONAL LOCAL FUNDS FOR CHARTER SCHOOL FUND.—Section 2403(b)(2)(A) of such Act (sec. 38–1804.03(b)(2)(A), D.C. Official Code) is amended by inserting after ''District of Columbia,'' the following: ''together with any other local funds that the Chief Financial Officer of the District of Columbia certifies are necessary to carry out the purposes of the Fund during the fiscal year,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 336. (a) CONTINUATION OF CERTAIN AUTHORITY OF CHIEF FINANCIAL OFFICER.—Section 2302 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 593), is amended by striking ''September 30, 2004'' and inserting ''September 30, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Emergency Wartime Supplemental Appropriations Act, 2003.

SEC. 337. (a) Section 106(b) of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25(b), D.C. Official Code) is amended by striking paragraph (5).

(b) Section 212(b) of such Act (sec. 34–2112(b), D.C. Official Code) is amended by striking paragraph (5).

(c) The amendments made by this section shall apply with respect to quarters occurring during fiscal year 2005 and each succeeding fiscal year.

SEC. 338. Notwithstanding any other provision of this Act, there is hereby appropriated for the Office of the Inspector General such amounts in local funds, as are consistent with the annual estimates for the expenditures and appropriations necessary for the operation of the Office of the Inspector General as prepared by the Inspector General and submitted to the Mayor and forwarded to the Council pursuant to D.C. Official Code 2–302.08(a)(2)(A) for fiscal year 2005: Provided, That the Office of the Chief Financial Officer shall take such steps as are necessary to implement the provisions of this subsection.

SEC. 339. The paragraph under the heading ''Federal Payment for Incentives for Adoption of Children'' in Public Law 106–113, approved November 29, 1999 (113 Stat. 1501), is amended to add the following proviso: '': Provided further, That the funds provided under this heading for the establishment of a scholarship fund for District of Columbia children of adoptive families, and District of Columbia children without parents due to the September 11, 2001 terrorist attack to be used for post high school education and training, once obligated by the District to establish the scholarship fund, shall remain obligated and be retained by the District for 25 years from the date of obligation to allow for any individual who is within the class of persons to be assisted by this provision to reach post high school and to present expenditures to be extinguished by the fund''.

SEC. 340. AUTHORITY OF OPCSFS. (a) Section 161(3)(E)(i) of Public Law 106–522 shall be amended to include a new section known as (E)(i)(IV) to establish regulations for administering lease guarantees through the credit enhancement fund to public charter schools in the District of Columbia.

(b) The first sentence of section 143 of the District of Columbia Appropriations Act of 2003 (Public Law 108–7, 117 STAT. 130) approved April 20, 2003 is amended by striking the phrase, ''under the authority of the Department of Banking and Financial Institutions'' and inserting ''under the authority of the Mayor'' in its place.

SEC. 341. PROCESS FOR FILING CHARTER PETITIONS. D.C. Code § 38–1802.01 is amended by adding a new section (e) as follows—

''(e) A petition to establish a public charter school in the District of Columbia, or to convert a District of Columbia public school or an existing private or independent school, is a public document.''.

SEC. 342. AMENDMENTS TO CHARTER SCHOOL LAW. (a) PROCESS FOR FILING CHARTER PETITIONS.—Section 2201 of the District of Columbia School Reform Act of 1995 (D.C. Code 38–1802.01) is amended—

(1) in subsection (a)(3)(B), by striking ''two-thirds'' and inserting ''51 percent''; and

(2) in subsection (b)(3)(B), by striking ''two-thirds'' and inserting ''51 percent''.

(b) EMPLOYEES.—Section 2207 of the District of Columbia School Reform Act of 1995 (D.C. Code 38–1802.07) is amended by adding at the end the following:

''(d) TEACHERS REMAINING AT CONVERTED PUBLIC CHARTER SCHOOLS.—A teacher employed at a District of Columbia public school that converts to a public charter school under section 2201 shall have the option of remaining at the charter school during the school's first year of operation after receiving an extended leave of absence under subsection (a)(1). After this 1-year period, the teacher may continue to be employed at the public charter school, at the sole discretion of the public charter school, or shall maintain current status within the District of Columbia public school system.''.

(c) PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.—Section 2209(b) of the District of Columbia School Reform Act of 1995 (D.C. Code 38–1802.09(b)) is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—Notwithstanding any other provision of law, regulation, or order relating to the disposition of a facility or property described in subparagraph (B), or to the disposition of any property of the District of Columbia, the Mayor and the District of Columbia government shall give a right of first offer, which right shall be annually reinstated with respect to any facility or property not previously disposed of, or under contract to be disposed of, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, with respect to the purchase, lease, transfer, or use of a facility or property described in subparagraph (B).'';

(B) by amending subparagraph (B)(iii) to read as follows:

''(iii) With respect to which—

''(I) the Board of Education has transferred jurisdiction to the Mayor and over which the Mayor has jurisdiction on the effective date of this subclause; or

''(II) over which the Mayor or any successor agency gains jurisdiction after the effective date of this subclause.''; and

(C) by adding at the end the following:

''(C) TERMS OF PURCHASE OR LEASE.—The terms of purchase or lease of a facility or property described in subparagraph (B) shall—

''(i) be negotiated by the Mayor;

''(ii) include rent or an acquisition price, as applicable, that is at least 25 percent less than the appraised value of the property (based on use of the property for school purposes); and

''(iii) include a lease period, if the property is to be leased, of not less than 25 years, and renewable for additional 25-year periods as long as the eligible applicant or Board of Trustees maintains its charter.''; and

(2) in paragraph (2)(A), by striking ''preference'' and inserting ''a right to first offer''; and

(3) by adding at the end the following:

''(3) CONVERSION PUBLIC CHARTER SCHOOLS.—Any District of Columbia public school that was approved to become a conversion public charter school under section 2201 before the effective date of this subsection or is approved to become a conversion public charter school after the effective date of this subsection, shall have the right to exclusively occupy the facilities the school occupied as a District of Columbia public school under a lease for a period of not less than 25 years, renewable for additional 25-year periods as long as the school maintains its charter at the non-profit rate, or if there is no non-profit rate, at 25 percent less than the fair market rate for school use.''.

SEC. 343. ANNUAL REPORT TO CONGRESS. Section 2211 of the School Reform Act of 1995 (D.C. Code 38–1802.11) shall be amended by:

(1) adding the following new subparagraph at the end of section 2211(a)(1):

''(D) Shall ensure that each public charter school complies with the annual reporting requirement of subsection 38–1802.04(b)(11) of this

Act, including submission of the audited financial statement required by sub-subsection (B)(ix) of that section.''; and

(2) adding the following before the period at the end of subparagraph (d): ''(10) details of major Board actions; (11) major findings from school reviews of academic, financial, and compliance with health and safety standards and resulting Board action or recommendations; (12) details of the fifth year review process and outcomes; (13) summary of annual financial audits of all charter schools, including (a) the number of schools that failed to timely submit the audited financial statement required by that section; (b) the number of schools whose audits revealed a failure to follow required accounting practices or other material deficiencies; and (c) the steps taken by the authority to ensure that deficiencies found by the audits are rectified; (14) number of schools which have required intervention by authorizing board to address any academic or operational issue; (15) what recommendations an authorizing board has made to correct identified deficiencies''.

SEC. 344. TRANSFER TO DISTRICT OF COLUMBIA. (a) TRANSFER OF JURISDICTION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, subject to subsection (b), the Director of the National Park Service (referred to in this section as the ''NPS''), acting on behalf of the Secretary of the Interior, shall transfer jurisdiction to the government of the District of Columbia, without consideration, the property described in paragraph (2).

(2) PROPERTY.—The property referred to in paragraph (1) is—

(A) a portion of National Park Service land in Anacostia Park, U.S. Reservation 343, Section G, the boundaries of which are the Anacostia River to the west, Watts Branch to the south, Kenilworth Aquatic Gardens to the north, and Anacostia Avenue to the east which includes the community center currently occupied under permit by the District of Columbia known as the ''Kenilworth Parkside Community Center''; and

(B) all of U.S. Reservation 523.

(b) CONDITIONS OF TRANSFER.—

(1) TERM.—Jurisdiction will be transferred from the NPS to the District of Columbia.

(2) CONDITION OF TRANSFER.—The transfer of jurisdiction under subsection (a)(1) shall be subject to such terms and conditions, to be included in a Declaration of Covenants to be mutually executed between NPS and the District of Columbia to ensure that the property transferred under that subsection—

(A) is used only for the provision of public recreational facilities, open space, or public outdoor recreational opportunities; and

(B) nothing in this Act precludes the District of Columbia from entering into a lease for all or part of the property with a public not-for-profit entity for the management or maintenance of the property.

(3) TERMINATION.—

(A) IN GENERAL.—The transfer under subsection (a)(1) shall terminate if—

(i) any term or condition of the transfer described in paragraph (2) or contained within the Declaration of Covenants described in paragraph (2) is violated, as determined by the NPS; and

(ii) the violation is not corrected by the date that is 90 days after the date on which the Mayor of the District of Columbia receives from the NPS a written notice of the violation.

(B) DETERMINATION OF CORRECTION.—A violation of a term or condition of the transfer under subsection (a)(1) shall be determined to have been corrected under subparagraph (A)(ii) if, after notification of the violation, the District of Columbia and the NPS enter into an agreement that the NPS considers to be adequate to ensure that the property transferred will be used in a manner consistent with paragraph (2).

(4) PROHIBITION OF CIVIL ACTIONS.—No person may bring a civil action relating to a violation of any term or condition of the transfer described in paragraph (2) before the date that is 90 days after the person notifies the Mayor of the District of Columbia of the alleged violation (including the intent of the person to bring a civil action for termination of the transfer under paragraph (3)).

(5) REMOVAL OF STRUCTURES; REHABILITATION.—The transfer under subsection (a)(1) shall be subject to the condition that, in the event of a termination of the transfer under paragraph (3), the District of Columbia shall bear the cost of removing structures on, or rehabilitating, the property transferred.

(6) ADMINISTRATION OF PROPERTY.—If the transfer under subsection (a)(1) is terminated under paragraph (3), the property covered by the transfer shall be returned to the NPS and administered as a unit of the National Park System in the District of Columbia in accordance with—

(A) the Act of August 25, 1916 (commonly known as the ''National Park Service Organic Act'') (16 U.S.C. 1 et seq.); and

(B) other laws (including regulations) generally applicable to units of the National Park System.

SEC. 345. The project for the Chicago Sanitary and Ship Canal Dispersal Barrier, Illinois, initiated under Section 1135 of Public Law 99–662, is authorized at a total cost of $9,100,000 with a Federal cost of $6,825,000 and a non-Federal cost of $2,275,000.

SEC. 346. BIENNIAL EVALUATION OF CHARTER SCHOOL AUTHORIZING BOARDS. (a) Biennial management evaluation of the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools shall be conducted by the Comptroller General of the United States.

(b) Evaluation shall include the following:

(1) Establish standards to assess each authorizer's procedures and oversight quality;

(2) Identify gaps in oversight and recommendations;

(3) Review processes of charter school applications;

(4) Extent of ongoing monitoring, technical assistance, and sanctions provided to schools;

(5) Compliance with annual reporting requirements;

(6) Actual budget expenditures for the preceding two fiscal years;

(7) Comparison of budget expenditures with mandated responsibilities;

(8) Alignment with best practices; and

(9) Quality and timeliness of meeting Section 2211(d) of the School Reform Act of 1995 (D.C. Code 38–1802.11(d)), as amended.

(c) INITIAL INTERIM REPORT TO CONGRESS.—The Government Accountability Office shall submit to the Committees on Appropriations of the House of Representatives and Senate, no later than May 1, 2005, a baseline report on the performance of each authorizer in meeting the requirements of the School Reform Act of 1995.

(d) Hereafter Section 2214(f) of Public Law 104–143 (D.C. Code 38–1802.14(f)), shall apply to the District of Columbia Board of Education Charter Schools Office.

SEC. 347. CLARIFYING OPERATIONS OF PUBLIC CHARTER SCHOOL BOARD. Section 2214 of the School Reform Act of 1995 (Public Law 104–134; D.C. Code 38–1802.14), is amended—

(1) by striking subsection (f) and inserting the following:

''(f) AUDIT.—The Board shall maintain its accounts according to Generally Accepted Accounting Principles for Not-for-Profit Organizations. The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States. The findings and recommendations of any such audit shall be forwarded to the Mayor, the District of Columbia Council, the appropriate congressional committees, and the Office of the Chief Financial Officer.''; and

(2) adding at the end the following:

''(h) CONTRACTING AND PROCUREMENT.—The Board shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer. Nothing in chapter 3 of title 2 of the District of Columbia Code shall affect the authority of the Board under this subsection.''.

This Act may be cited as the ''District of Columbia Appropriations Act, 2005''.

And the Senate agree to the same.

RODNEY FRELINGHUYSEN,
ERNEST J. ISTOOK, JR.,
RANDY ''DUKE'' CUNNINGHAM,
JOHN T. DOOLITTLE,
DAVE WELDON,
JOHN ABNEY CULBERSON,
BILL YOUNG,
CHAKA FATTAH,
ED PASTOR,
ROBERT E. ''BUD'' CRAMER, JR.,
DAVID R. OBEY,
Managers on the Part of the House.

MIKE DEWINE,
SAM BROWNBACK,
KAY BAILEY HUTCHISON,
TED STEVENS,
MARY LANDRIEU,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate bill (H.R. 4850), making appropriations for the District of Columbia for the fiscal year ending September 30, 2005, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 4850 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 108–610 or Senate Report 108–354 that are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

The District of Columbia Appropriations Act, 2005, put in place by this bill, incorporates the following agreements of the managers:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

The conference agreement provides $25,600,000 for a Federal payment for resident tuition support as proposed by the House instead of $21,200,000 as proposed by the Senate. Further, the conferees limit administrative expenses to no more than $1,200,000 in fiscal year 2005. The conferees urge the District to work with the legislative committees of jurisdiction and the Committees on Appropriations to reauthorize this important program and to explore options for enhancing the effectiveness of these tuition assistance grants, including additional non-Federal sources.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

The conference agreement provides $15,000,000 for a Federal payment for emergency planning and security costs in the District of Columbia as proposed by the House and Senate.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

The conference agreement provides $190,800,000 for a Federal payment to the District of Columbia Courts, instead of $202,110,000 as proposed by the House and $195,010,000 as proposed by the Senate. Included in this amount is $8,952,000 for the Court of Appeals, $84,948,000 for the Superior Court, $40,699,000 for the Court System, and $56,201,000 for capital improvements.

The conferees have provided sufficient funds for the Old Courthouse project to meet the expenditure requirements in fiscal year 2005. The conferees are supportive of the Old Courthouse project and the much needed Judiciary Square renovation, and are committed to providing the needed resources for the Old Courthouse project within the context of the fiscal year 2006 appropriations process.

The conferees agree with the financial reporting requirements proposed in Senate Report 108–354; however, the conferees direct that these reports be prepared and submitted to the Committees on Appropriations of the House of Representatives and Senate on a quarterly basis.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

The conference agreement provides $38,500,000 for Defender Services in the District of Columbia Courts instead of $41,500,000 as proposed by the House and $34,500,000 as proposed by the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

The conference agreement provides $180,000,000 for a Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia, instead of $183,490,000 as proposed by the House and $182,490,000 as proposed by the Senate.

The conferees direct that $1,100,000 included in the above amount is to continue to reduce supervision caseload ratios for sex-offenders, mental health, and domestic violence cases, and $200,000 to expand the global positioning system electronic monitoring program.

The conferees note that many individuals leave prison and enter community supervision each year with histories of long-term substance abuse and prior supervision failure due to substance abuse relapse. It is estimated that 35 percent of the 2,200 individuals returning to the District of Columbia from federal prison each year are chronic substance abusers. These offenders are at a higher risk for quick substance abuse relapse and subsequent rearrest.

Based on these facts, the conferees support CSOSA's collaborative efforts with the D.C. government, the U.S. Parole Commission, the Office of Justice Programs and the Bureau of Prisons to initiate a 32-bed Pre-Release Transition Program. This six- to twelve-month residential treatment program will be located at the District of Columbia's Correctional Treatment Facility. It will serve both individuals transitioning out of prison and parole violators who will be remanded to this program rather than returned to a Federal facility. The conferees urge CSOSA to continue to participate in this important program that will complement CSOSA's existing re-entry and treatment programs by offering a meaningful alternative to parole revocation for the habitual substance abuser who has violated his or her parole, as well as enhancing the potential for success among those entering community supervision.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

The conference agreement provides $4,800,000 for a Federal payment to the District of Columbia Water and Sewer Authority instead of $10,000,000 as proposed by the House and Senate. These funds are for the continued implementation of the Combined Sewer Overflow Long-Term Plan.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE

The conference agreement provides $3,000,000 for a Federal payment to the District of Columbia Department of Transportation for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland as proposed by the House and Senate.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

The conference agreement provides $1,300,000 for a Federal payment to the Criminal Justice Coordinating Council as proposed by the House and Senate. The amount is to remain available until expended as proposed by the Senate.

FEDERAL PAYMENT FOR THE UNIFIED COMMUNICATIONS CENTER

The conference agreement provides $6,000,000 for a Federal payment to the District of Columbia for the Unified Communications Center instead of $7,000,000 as proposed by the Senate and no funds as proposed by the House. The House had included funding for the Unified Communications Center in this Act under the heading Federal Payment for Capital Development in the District of Columbia.

FEDERAL PAYMENT FOR CAPITAL DEVELOPMENT IN THE DISTRICT OF COLUMBIA

The conference agreement provides no funding for capital development as proposed by the Senate instead of $7,000,000 as proposed by the House. The conferees have provided $6,000,000 for the Unified Communications Center under the heading Federal Payment for the Unified Communications Center.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

The conference agreement provides $2,500,000 for a Federal payment to the District of Columbia Department of Transportation for transportation assistance as proposed by the Senate. The House bill contained no similar provision. Included in this amount is $1,500,000 to assist the District with its annual operating payment to the Washington Metropolitan Area Transit Authority, and $1,000,000 for the District's Downtown Circulator.

The conferees are supportive of the efforts of the District of Columbia Department of Transportation (DDOT) to implement the Downtown Circulator. The conferees encourage the DDOT to consider all bid proposals, including those of private bus operators, for carrying out some elements of this service.

FEDERAL PAYMENT FOR PUBLIC SCHOOL LIBRARIES

The conference agreement provides $6,000,000 for a Federal payment to the District of Columbia Public Schools for public school libraries subject to a one-to-one match by the District of Columbia Public Schools as proposed by the House. The Senate had no similar provision. The conference agreement adopts by reference language accompanying these funds as recommended in House report 108–610.

FEDERAL PAYMENT FOR THE FAMILY LITERACY PROGRAM

The conference agreement provides $1,000,000 for a Federal payment to the District of Columbia for a family literacy program subject to a 100 percent match with local funds as proposed by the House. The Senate had no similar provision.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

The conference agreement provides $5,000,000 for a Federal payment for foster care improvements in the District of Columbia as proposed by the House and Senate. The conferees have included the following distribution of funds: $3,250,000 for the District of Columbia Child and Family Services Agency, of which $2,000,000 is for an intensive, early intervention program, $750,000 is for emergency support, and $500,000 is for technology upgrades; $1,250,000 is for the District's Department of Mental Health; and $500,000 is for the Washington Metropolitan Council of Governments for respite care. The District is directed to implement this program based on the direction provided in Senate Report 108–354.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

The conference agreement provides $32,500,000 for a Federal payment to the Office of the Chief Financial Officer of the District of Columbia as proposed by the Senate instead of $19,000,000 as proposed by the House. These funds are for programs and activities that include, but are not limited to, support for economic development and infrastructure in the District, and the health, education, and job training needs of District residents and are to be allocated as follows:

Project Name	*Amount*
Capitol Hill Arts Workshop/capital improvements	$150,000
Center for Inspired Teaching/professional development	150,000
Chesapeake Veterans Hospital/capital development	250,000
SEED Foundation/urban boarding school model	150,000
Teacher Advancement Program/expand programs with DCPS and charter schools	200,000
See Forever Foundation/after school programs	250,000
Court Appointed Special Advocates	300,000
Capitol Hill Cluster School	300,000
Girl Scout Council/capital improvements and scholarships	700,000
National Campaign to Prevent Teen Pregnancy/with Uhlich Children's Advantage Network	300,000
Building Bridges Across the River/capital improvements	300,000
Calvary Bilingual Multicultural Learning Center tuition assistance	400,000
Environmental Active Cap Project remediation of the Anacostia River	400,000
Southeastern University/information technology and increasing enrollment	450,000
National Capital Children's Museum/exhibit development	500,000

Project Name	Amount
Old Naval Hospital Foundation/capital development	700,000
Washington Area Women's Foundation/financial independence initiative	1,000,000
National Trust for Historic Preservation Lincoln Cottage/capital development	1,000,000
National Composite Center/bridges along the Anacostia/subject to a match by DDOT	1,000,000
Discovery Creek Children's Museum/educational programs	400,000
DC Poison Control Center/operations	450,000
Children's Health Fund/mobile van	400,000
DC Commission on the Arts/Main Street Arts Initiative	400,000
First Book Program	200,000
National Safe Kids Campaign	300,000
Teach for America, DC	200,000
All Faith Consortium/substance abuse services	200,000
Shakespeare Theater/capital development	900,000
Gospel Rescue Mission/capital development	300,000
Second Chance Employment Services	450,000
Washington Opera/educational outreach	400,000
Teen Connection	900,000
Barracks Row Inc/capital development	500,000
Whitman-Walker Clinic	600,000
Gonzaga College/capital development	400,000
National Center for Manufacturing Sciences	400,000
Center for Mental Health/family health model	400,000
Council for Court Excellence	200,000
Unity Health Care/patient educational project	650,000
World Vision/Kids in Need of Community Storehouse	400,000
Read Net Foundation	400,000
Kingsman Charter School	200,000
ARISE Foundation/life management skills	300,000
SURE Foundation/library and community resources	100,000
Children's Hospital/capital development lab	400,000
Values First Inc	250,000
Best Friends Foundation	250,000
Everybody Wins	150,000
Greater DC Task Force on Trafficking in Persons	120,000
Women's Center/family strengthening program initiative	850,000
Institute for Educational Equity and Opportunity/advocate research initiative	250,000
Educational Advancement Alliance/civic education project	250,000
Caribbean American Mission for Educational Research and Action	350,000
Capital City Careers Federal Industry Academies	200,000
Catalyst Inc/teacher feeder program at Jefferson High School	200,000
Foundation for Advancement of African Americans in Film	250,000
Church of Epiphany/support our schools program	150,000
Fort Dupont Hockey Club/kids at risk	80,000
STEED youth education and recreation program	350,000
Jewish Council for Public Affairs/resource initiative for low-moderate income families	500,000
Eastern Market renovation	250,000
National Children's Alliance/capital development	500,000
Capital Area Food Bank/capital development	300,000
Perry School Community Services	150,000
Dance Institute of Washington	150,000
Bach to School	100,000
STRIVE/job readiness program	100,000
Volunteers for Abused and Neglected Children	100,000
American Community Partnership	100,000
Latin American Youth Center	100,000
For Love of Children/Thurgood Marshall Center Youth Technology program	100,000
One Economy/Digital Inclusion Initiative	200,000
City Year's Reading for Success/literacy program	100,000
Children's Hospital/capital development	5,000,000
St. Coletta of Greater Washington/capital development	2,000,000
Chief Financial Officer/project reviews	100,000
TOTAL	32,500,000

The agreement includes $100,000 to the Office of the Chief Financial Officer (OCFO) to review all entities that are receiving funding under this heading. The conferees expect that the OCFO will report to the Committees on Appropriations of the House of Representatives and Senate on the financial status of these organizations and how they have used Federal funds provided under this heading. The conferees expect all entities receiving funds to provide proper access to records as is necessary for the OCFO to carry out these reviews.

Each entity that receives funding under this heading is to submit to the Committees on Appropriations of the House of Representatives and Senate, a report on the activities to be carried out with such funds no later than March 15, 2005. The House bill contained no similar provision.

The conferees are concerned about the deteriorating state of the historic Civil War-era cavalry barn on the campus of St. Elizabeth's and direct the District's Office of Planning to submit a plan to the Committees on Appropriations, within 60 days of the date of enactment of this Act, to protect, repair and make effective re-use of the barn. The conferees understand that the Friends of St. Elizabeth's Cavalry Barn have recommended restoring the cavalry barn for use by the Metropolitan Police Department's Horse Mounted Patrol and directs the Office of Planning, in cooperation with the Metropolitan Police Department, to include an evaluation of the feasibility of this proposal as part of the aforementioned plan.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

The conference agreement includes $40,000,000 for a Federal payment for a school improvement program in the District of Columbia as proposed by the House and Senate. Included in this amount is $13,000,000 for the District of Columbia Public Schools to improve public school education; $13,000,000, to remain available until September 30, 2006, for the State Education Office to expand quality charter schools in the District of Columbia; and $14,000,000 for the Secretary of the Department of Education to provide opportunity scholarships for students in the District of Columbia.

The conferees direct that the $13,000,000 provided to the District of Columbia Public Schools shall be allocated as follows: not less than $2,000,000 shall be used to establish a new incentive fund designed to reward high performing or significantly improved public schools; not less than $2,000,000 shall be used to support the Transformation School Initiative directed to schools in need of improvement; the remaining amounts shall be used by the Superintendent of the District of Columbia Public Schools to contract for management and consulting services and implement reforms, and to provide grants to schools which are not eligible under either the incentive fund or the Transformation School Initiative.

The conferees direct that $13,000,000 provided to the State Education Office to expand public charter schools in the District of Columbia shall be distributed as follows: $2,000,000 for the City Build Initiative to create neighborhood-based charter schools; $2,750,000 for the Credit and Direct Loan Program for charter schools; $150,000 for administrative expenses of the Office of Charter School Financing and Support to expand outreach and support of charter schools; $100,000 for the D.C. Public Charter School Association to enhance the quality of charter schools; $4,000,000 for the development of an incubator facility for public charter schools; $2,000,000 for a charter school college preparatory program to be implemented by the Educational Advancement Alliance in consultation with the D.C. Public Charter School Association; and $2,000,000 for a new incentive fund to reward high performing or significantly improved public charter schools.

The conferees strongly encourage the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools and the Chief Financial Officer of the District of Columbia to enter into a memorandum of understanding to govern annual financial audits of local and Federal funding to charter schools in the District of Columbia.

The $2,000,000 provided to the Educational Advancement Alliance in consultation with the D.C. Public Charter School Association is for the implementation of a comprehensive college preparatory program to be made available to all 9th through 12th grade students attending public charter schools within the District of Columbia and authorized by either public school chartering authority. It is the intent of the conferees that this program should provide direct early college awareness services to those students and parents preparing and planning for higher education by offering activities that include, but are not limited to, assistance with dual/concurrent course enrollment, pre-college advising, financial aid counseling, PSAT, SAT, and ACT test preparation, college application assistance, and career exploration and leadership development.

The conferees recognize Sallie Mae for their commitment to the District of Columbia's charter schools and their utilization of innovative approaches to encourage private investment.

The conference agreement adopts by reference language accompanying these funds

as recommended in Senate Report 108–354. The conference agreement also includes six general provisions that are designed to enhance oversight of charter schools.

FEDERAL PAYMENT FOR BIOTERRORISM AND FORENSICS LABORATORY

The conference agreement provides $8,000,000 for a Federal payment to the District of Columbia for the bioterrorism and forensics laboratory as proposed by the Senate. The conferees direct the District to provide at least $2,300,000 of local funds for this purpose. The House bill contained no similar provision.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The conference agreement provides that operating expenses for the District of Columbia for fiscal year 2005 shall not exceed $6,199,114,000, of which $4,165,485,000 is from local funds, $1,687,554,000 is from Federal grant funds, $332,761,000 is from other funds, and $13,314,000 is from private funds as proposed by the House instead of $7,206,164,000, of which $4,215,088,000 is from local funds, $1,762,046,000 is from Federal funds, $1,214,843,000 is from other funds, and $14,817,000 is from private funds and an intradistrict amount of $435,054,000 as proposed by the Senate. In addition, the agreement includes $114,900,000 from funds previously appropriated in this Act as Federal payments, instead of $98,900,000 as proposed by the House and $186,900,000 as proposed by the Senate.

GOVERNMENTAL DIRECTION AND SUPPORT

The conference agreement provides $416,069,000 for governmental direction and support, including $261,068,000 from local funds, $100,256,000 from Federal grant funds, and $54,745,000 from other funds as proposed by both the House and Senate. In addition, the agreement includes $33,000,000 from funds previously appropriated in this Act as Federal payments, instead of $19,500,000 as proposed by the House and $52,500,000 as proposed by the Senate. These Federal payment funds are allocated as follows:

Washington Metropolitan Council of Governments.—$500,000 for foster care improvements.

Office of the Chief Financial Officer.—$32,500,000 to support economic development and infrastructure in the District, and the health, education, and job training needs of District residents.

The conference agreement once again includes a provision that extends through fiscal year 2005, the authority of the Office of the Chief Financial Officer (OCFO) over personnel, procurement, and the preparation of fiscal impact statements. This authority continues to exempt all aspects of the OCFO's contracting and procurement from the District of Columbia's Procurement Practices Act. It is the intent of the conferees that the OCFO continue to exercise its exemption during the post control board period.

ECONOMIC DEVELOPMENT AND REGULATION

The conference agreement provides $334,745,000 for economic development and support, including $55,764,000 from local funds, $93,050,000 from Federal grant funds, $185,806,000 from other funds, and $125,000 from private funds as proposed by both the House and Senate.

PUBLIC SAFETY AND JUSTICE

The conference agreement provides $797,423,000 for public safety and justice, including $760,849,000 from local funds, $6,599,000 from Federal grant funds, $29,966,000 from other funds, and $9,000 from private funds as proposed by the House instead of $798,723,000, including $760,849,000 from local funds, $7,899,000 from Federal funds, $29,966,000 from other funds, and $9,000 from private funds as proposed by the Senate. In addition, the agreement includes $1,300,000 from funds previously appropriated in this Act as Federal payments as proposed by the House and Senate.

Criminal Justice Coordinating Council.—$1,300,000 to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $1,223,424,000 for the public education system, including $1,058,709,000 from local funds, $151,978,000 from Federal grant funds, $8,957,000 from other funds, and $3,780,000 from private funds as proposed by the House instead of $1,266,424,000, including $1,058,709,000 from local funds, $194,979,000 from Federal funds, $8,957,000 from other funds, and $3,780,000 from private funds. In addition, the agreement includes $57,600,000 from funds previously appropriated in this Act as Federal payments as proposed by the House, instead of $54,500,000 as proposed by the Senate. These Federal payment funds are allocated as follows:

District of Columbia Public Schools.—$6,000,000 for public school libraries and $13,000,000 for school improvement.

State Education Office.—$13,000,000 for school improvement and $25,600,000 for resident tuition support.

District of Columbia Public Schools.—The allocation includes $888,944,000 for District of Columbia public schools, including $760,494,000 from local funds, $117,450,000 from Federal grant funds, $7,330,000 from other funds, $3,670,000 from private funds as proposed by the House instead of $901,944,000, including $760,494,000 from local funds, $130,450,000 from Federal grant funds, $7,330,000 from other funds, and $3,670,000 from private funds. In addition, the agreement includes $19,000,000 from funds previously appropriated in this Act as Federal payments as proposed by the House instead of $13,000,000 as proposed by the Senate.

Teachers Retirement Fund.—The allocation includes $9,200,000 for the Teachers Retirement Fund as proposed by the House and Senate.

State Education Office.—The allocation includes $43,104,000 for the State Education Office, including $10,015,000 from local funds, $32,913,000 from Federal grant funds, and $176,000 from other funds as proposed by the House instead of $73,104,000, including $10,015,000 from local funds, $62,914,000 from Federal grant funds, and $176,000 from other funds as proposed by the Senate. In addition, the agreement includes $38,600,000 from funds previously appropriated in this Act as Federal payments as proposed by the House instead of $40,500,000 as proposed by the Senate.

District of Columbia Public Charter Schools.—The allocation includes $196,802,000 from local funds for District of Columbia public charter schools as proposed by both the House and Senate.

University of the District of Columbia.—The allocation includes $49,602,000 for the University of the District of Columbia as proposed by both the House and Senate.

District of Columbia Public Libraries.—The allocation includes $30,831,000 for District of Columbia public libraries, including $28,978,000 from local funds, $1,093,000 from Federal grant funds, $651,000 from other funds as proposed by both the House and Senate, and $110,000 from private funds as proposed by the House.

Commission on the Arts and Humanities.—The allocation includes $4,941,000 for the Commission on the Arts and Humanities, including $3,618,000 from local funds, $523,000 from Federal grant funds, and $800,000 from other funds as proposed by both the House and Senate.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $2,533,825,000 for human support services, including $1,165,314,000 from local funds, $1,331,670,000 from Federal grant funds, $27,441,000 from other funds, and $9,400,000 from private funds as proposed by both the House and Senate. In addition, the agreement includes $4,500,000 from funds previously appropriated in this Act as Federal payments as proposed by the House instead of $5,000,000 as proposed by the Senate. These Federal payment funds are allocated as follows:

Department of Mental Health.—$1,250,000 for foster care improvements.

Child and Family Services Agency.—$3,250,000 for foster care improvements.

PUBLIC WORKS

The conference agreement includes $331,936,000 for public works, including $312,035,000 from local funds, $4,000,000 from Federal grant funds, and $15,901,000 from other funds as proposed by both the House and Senate. In addition, the agreement includes $2,500,000 from funds previously appropriated in this Act as Federal payments instead of $5,000,000 as proposed by the Senate. The House bill contained no similar provision. These Federal payment funds are allocated as follows:

Department of Transportation.—$2,500,000 for transportation assistance.

CASH RESERVE

The conference agreement includes $50,000,000 from local funds for the cumulative cash reserve as proposed by both the House and Senate.

REPAYMENT OF LOANS AND INTEREST

The conference agreement provides $347,700,000 from local funds for repayment of loans and interest as proposed by both the House and Senate.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

The conference agreement provides $4,000,000 from local funds for payment on short-term borrowing as proposed by both the House and Senate.

CERTIFICATES OF PARTICIPATION

The conference agreement provides $11,252,000 from local funds for certificates of participation as proposed by both the House and Senate.

SETTLEMENTS AND JUDGMENTS

The conference agreement provides $20,270,000 from local funds for settlements and judgments as proposed by both the House and Senate.

WILSON BUILDING

The conference agreement provides $3,633,000 from local funds for the Wilson building as proposed by both the House and Senate.

WORKFORCE INVESTMENTS

The conference agreement provides $38,114,000 from local funds for workforce investments as proposed by both the House and Senate.

NON-DEPARTMENTAL AGENCY

The conference agreement includes $13,946,000 for the Non-Departmental Agency, including $4,000,000 from local funds and $9,946,000 from other funds as proposed by both the House and Senate.

EMERGENCY PLANNING AND SECURITY FUND

The conference agreement provides $15,000,000 from funds previously appropriated in this Act under the heading Federal Payment for Emergency Planning and Security costs as proposed by both the House and Senate.

OLD CONVENTION CENTER DEMOLITION RESERVE

The conference agreement provides not to exceed $11,000,000 from the general fund balance for the old convention center demolition reserve as proposed by the Senate. The House had no similar provision.

TAX INCREMENT FINANCING PROGRAM

The conference agreement provides $9,710,000 from local funds for a tax increment-financing program as proposed by both the House and Senate.

EQUIPMENT LEASE OPERATING

The conference agreement provides $23,109,000 for equipment lease operating from local funds as proposed by the House. The Senate had no similar provision.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

The conference agreement provided such amounts from local funds as are necessary to meet the balance requirements for the emergency reserve fund and the contingency reserve fund as proposed by both the House and Senate.

FAMILY LITERACY

The conference agreement provides $1,000,000 for the Family Literacy Program as proposed by the House. The Senate had no similar provision.

PAY-AS-YOU-GO CAPITAL

The conference agreement includes $6,531,000 from local funds for pay-as-you-go capital as proposed by both the House and Senate. In addition, the conference agreement includes language allowing the transfer of funds to other headings in this Act as proposed by the Senate. The House had no similar provision.

PAY-AS-YOU-GO CONTINGENCY

The conference agreement includes $43,137,000 subject to the Criteria for Spending Pay-As-You-Go Funding Act as proposed by both the House and Senate.

REVISED REVENUE ESTIMATE CONTINGENCY PRIORITY

The conference agreement provides that if the Chief Financial Officer certifies, through a revised revenue estimate, that funds are available from local funds, such funds will be expended based on the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library Expenditures Act as proposed by both the House and Senate.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

The conference agreement provides $287,206,000 from other funds for the Water and Sewer Authority as proposed by the Senate instead of $275,289,000 as proposed by the House. The agreement also includes $371,040,000 from other funds for construction projects as proposed by both the House and Senate. In addition, the agreement includes $4,800,000 from funds previously appropriated in this Act as a Federal payment for the combined sewer overflow long-term plan, as proposed by the House and the Senate.

WASHINGTON AQUEDUCT

The conference agreement includes $47,972,000 from other funds for the Washington Aqueduct as proposed by both the House and Senate.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

The conference agreement includes $3,792,000 from other funds for the Stormwater Permit Compliance Enterprise Funds as proposed by both the House and Senate.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

The conference agreement includes $247,000,000 from other funds for the Lottery and Charitable Games Enterprise Fund as proposed by both the House and Senate.

SPORTS AND ENTERTAINMENT COMMISSION

The conference agreement includes $7,322,000 from local funds for the Sports and Entertainment Commission as proposed by both the House and Senate.

DISTRICT OF COLUMBIA RETIREMENT BOARD

The conference agreement includes $15,277,000 for the District of Columbia Retirement Board from other funds as proposed by both the House and Senate.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

The conference agreement includes $77,176,000 from other funds for the Washington Convention Center Enterprise Fund as proposed by both the House and Senate.

NATIONAL CAPITAL REVITALIZATION CORPORATION

The conference agreement includes $7,850,000 from other funds for the National Capital Revitalization Corporation as proposed by both the House and Senate.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

The conference agreement includes $85,102,000 for the University of the District of Columbia as proposed by the House and Senate.

UNEMPLOYMENT INSURANCE TRUST FUND

The conference agreement includes $180,000,000 for the Unemployment Insurance Trust Fund as proposed by the House and Senate. The title of the account is agreed to as the ''Unemployment Insurance Trust Fund'' as proposed by the House instead of ''Unemployment Compensation Fund'' as proposed by the Senate.

OTHER POST EMPLOYEE BENEFITS TRUST FUND

The conference agreement includes $953,000 for the Other Post Employee Benefits Trust Fund as proposed by the House and Senate. The title of the account is agreed to as ''Other Post Employee Benefits Trust Fund'' as proposed by the House instead of ''District of Columbia Personnel Trust Fund'' as proposed by the Senate.

DISTRICT OF COLUMBIA PUBLIC LIBRARY TRUST FUND

The conference agreement includes $17,000 for the District of Columbia Public Library Trust Fund as proposed by the House and Senate. The title of this account is agreed to as ''District of Columbia Public Library Trust Fund'' as proposed by the Senate instead of the abbreviation as proposed by the House.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

The conference agreement includes $1,087,649,000 for capital outlays, including $839,898,000 from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal grant funds, and a rescission of $361,763,000 from local funds appropriated under this heading in prior years as proposed by the House instead of $839,897,000 from local funds and $367,763,000 from local funds previously appropriated as proposed by the Senate. All other amounts were in agreement. In addition, the agreement includes from funds previously appropriated in this Act as Federal payments, $3,000,000 for the Anacostia Waterfront Initiative; $6,000,000 for the Unified Communications Center, and $8,000,000 for the Bioterrorism and Forensics Laboratory.

TITLE III—GENERAL PROVISIONS

The conference agreement changes the section numbers and makes technical corrections to several provisions.

The conference agreement excludes a provision as proposed by the Senate (Sec. 305) that requires the reporting of employee payroll information to various congressional committees and the D.C. Council. The House bill contained no similar provision.

The conference agreement includes the language in Sec. 105(a) as proposed by the House, and changes the section number to Sec. 305, to prohibit the use of any funds in the Act for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature. The Senate bill (Sec. 306) proposed the use of local funds for this purpose.

Also in Sec. 305, the conference agreement includes the language in Sec. 105(b) as proposed by the House to allow the use of local funds to carry out lobbying activities on any matter except the promotion or support of any boycott, statehood for the District or voting representation in Congress. The Senate bill (Sec. 307) proposed the use of local funds for these purposes.

The conference agreement includes the language in Sec. 115 as proposed by the House, and changes the section number to Sec. 315, relating to restrictions on the use of official vehicles. The Senate bill included a similar provision (Sec. 317).

The conference agreement includes the language in Sec. 117 as proposed by the House, and changes the section number to Sec. 317, that prohibits the use of appropriated funds by the Corporation Counsel or any other office or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia. The Senate bill (Sec. 319) allowed the use of local funds for this purpose.

The conference agreement includes the language in Sec. 118 as proposed by the House, and changes the section number to Sec. 318, to prohibit the use of any funds contained in this Act for needle exchange programs. The Senate bill (Sec. 320) allowed the use of local funds for such programs.

The conference agreement includes the language in Sec. 125 as proposed by the House, and changes the section number to Sec. 325, to prohibit the transfer of Federal funds in this Act without appropriate authority. The Senate bill contained no similar provision.

The conference agreement includes the language in Sec. 331 as proposed by the Senate, and changes the section number to Sec. 329, to repeal certain sections of the District of Columbia Official Code to eliminate certain bonding requirements for court officers. The House bill (Sec. 136) proposed similar language.

The conference agreement includes the language in Sec. 332 as proposed by the Senate, and changes the section number to Sec. 330, to amend the District of Columbia Official Code to allow the D.C. Courts to take advantage of the Federal program of discounted airfares. The House bill (Sec. 137) proposed similar language.

The conference agreement includes the language in Sec. 129 as proposed by the House, and changes the section number to Sec. 331, that provides for appropriations in this Act to be increased by no more than $15,000,000 from unexpended general funds and sets forth certain criteria for the use of

the funds. The Senate bill contained no similar provision.

The conference agreement includes the language in Sec. 333 as proposed by the Senate, and changes the section number to Sec. 332, to amend section 450A of the District of Columbia Home Rule Act relating to emergency and contingency reserve funds. The House bill (Sec. 130) proposed similar language.

The conference agreement includes the language in Sec. 334 as proposed by the Senate related to re-calculating the District's emergency and contingency cash reserve funds, and changes the section number to Sec. 333. The House bill (Sec. 131) proposed similar language.

The conference agreement includes the language in Sec. 132 as proposed by the House, and changes the section number to Sec. 334, to amend language that authorizes expenses associated with the processing of retirement and disability payments. The Senate bill (Sec. 335) proposed similar language.

The conference agreement includes the language in Sec. 133 as proposed by the House, and changes the section number to Sec. 335, to clarify that all funds placed within the charter school fund are appropriated funds for the purpose. The Senate bill contained no similar provision.

The conference agreement includes the language in Sec. 134 as proposed by the House, and changes the section number to Sec. 336, to extend authority of the Chief Financial Officer. The Senate bill (Sec. 337) proposed similar language.

The conference agreement includes the language in Sec. 135 as proposed by the House, and changes the section number to Sec. 337, to eliminate certain Federal agency reporting requirements relating to payments to the District of Columbia Water and Sewer Authority. The Senate bill (Sec. 330) proposed similar language.

The conference agreement includes the language in Sec. 336 as proposed by the Senate, and changes the section number to Sec. 338, relating to funding for the operation of the Office of the Inspector General. The House bill (Sec. 138) proposed similar language.

The conference agreement includes the language in Sec. 338 as proposed by the Senate, and changes the section number to Sec. 339, that amends language relating to the Federal payment for incentives for the adoption of children. The House bill contained no similar provision.

The conference agreement includes the language in Sec. 339 as proposed by the Senate, and changes the section number to Sec. 340, to allow the Office of Charter School Financing and Support to use Federal credit enhancement or direct loan funds to provide guarantees for charter schools. The House bill contained no similar provision.

The conference agreement includes the language in Sec. 340 and Sec. 341 as proposed by the Senate, and changes the section numbers to Sec. 341 and Sec. 342, to amend the District of Columbia School Reform Act of 1995 to further support and expand charter schools in the District. The language modifies the process for filing charter school petitions and encourages public schools to convert to charter schools. In addition, the language requires that a public school which converts to a public charter school may retain the facility which it occupied as a public school. The House bill contained no similar provisions.

The conference agreement includes the language in Sec. 342 as proposed by the Senate, and changes the section number to Sec. 343, to clarify the auditing procedures of the District of Columbia Public Charter School Board and increase oversight and accountability. The House bill contained no similar provision.

The conference agreement modifies the language in Sec. 323 as proposed by the Senate, and changes the section number to Sec. 344 to provide authority for the transfer of certain property in the District of Columbia. The House bill contained no such provision.

The conference agreement includes language in Sec. 345 that changes the amount of Federal funds that may be expended for the Chicago Sanitary and Ship Canal Dispersal Barrier.

The conference agreement includes the language in Sec. 344 as proposed by the Senate, and changes the section number to Sec. 346, to establish a biennial evaluation of the District of Columbia chartering authorities for the District of Columbia public charter schools. The House bill contained no such provision.

The conference agreement includes the language in Sec. 345 as proposed by the Senate, and changes the section number to Sec. 347, to clarify the operations of the Public Charter School Board relating to auditing and contracting and procurement. The House bill contained no such provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2005 recommended by the Committee of Conference, with comparisons to the fiscal year 2004 amount, the 2005 budget estimates, and the House and Senate bills for 2005 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2004	$541,783
Budget estimates of new (obligational) authority, fiscal year 2005	560,359
House bill, fiscal year 2005	560,000
Senate bill, fiscal year 2005	560,000
Conference agreement, fiscal year 2005	560,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2004	+18,217
Budget estimates of new (obligational) authority, fiscal year 2005	−359
House bill, fiscal year 2005	+0
Senate bill, fiscal year 2005	+0

RODNEY FRELINGHUYSEN,
ERNEST J. ISTOOK, JR.,
RANDY ''DUKE'' CUNNINGHAM,
JOHN T. DOOLITTLE,
DAVE WELDON,
JOHN ABNEY CULBERSON,
BILL YOUNG,
CHAKA FATTAH,
ED PASTOR,
ROBERT E. ''BUD'' CRAMER, JR.,
DAVID R. OBEY,
Managers on the Part of the House.

MIKE DEWINE,
SAM BROWNBACK,
KAY BAILEY HUTCHISON,
TED STEVENS,
MARY LANDRIEU,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

(Mr. STUPAK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

PANDORA'S BOX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the Republican ploy is not going to work. Finally, it is out in the open. H.R. 163, which the administration denied for 18 months, that is the national service bill, is not going to go away because the Republicans will it. They opened Pandora's box with this needless door, and they cannot close it, no matter how hard they try.

Finally, the American people are going to get the truth. H.R. 163 is out in the open. The administration denied the existence of the possibility of a draft since the day we proposed it. They refused to face the issue of who would fight and die in the President's war. They ordered the Republican majority to bury 163 alive; refer it to the Department of Defense where it would be placed in solitary confinement forever; lose it in the system, just like they lose human beings in the system in Iraq. But they did not count on the kids, our sons and daughters or nieces and nephews our godchildren and grandchildren. The Republicans did not count on the kids. It started on the Internet blogs. Go look for yourself. We raise smart kids, America. They were the first to see through the administration's rhetoric.

The administration claims we have enough soldiers in Iraq, but they stop-loss soldiers who have survived a year on duty in Iraq, and this administration orders them to stay and fight some more. They claim we have enough soldiers in Iraq, but we call up the ready reserves and order them out to Iraq. They claim they have enough soldiers in Iraq, but they got rid of the general, they retired him, who said it would take 300,000 troops in Iraq.

They get the names and addresses of our high school kids through the PATRIOT Act and send the recruiters on a mission. Yes, America, the PATRIOT Act helps them locate your children. One parent in Seattle called it ''outrageous'' and ''disgraceful.'' How right he was. The PATRIOT Act. You know, the bill the administration claims it needs to catch the terrorists; but it nets the government the names, addresses, and telephone numbers of your sons and daughters, every single one of them. They not only know where you live, they are coming to have a talk with your kid.

They say they do not need a draft. They sure do not act that way. And

that is before the election, the only thing they fear. Even their own guy, the former Iraqi administrator, told an audience yesterday the U.S. went into Iraq without enough troops. The looting, the violence, there was no way to stop it. Paul Bremer said this in a direct quote: ''We never had enough troops on the ground.'' Later, aides said his comments were meant to be off the record. Apparently, that is where the administration keeps the truth these days, off the record.

Likewise, Rumsfeld told the Council on Foreign Relations in New York yesterday that he knows of ''no strong, hard evidence linking Saddam to al Qaeda.'' When that one got into the news media, the Secretary said he was misunderstood. I just bet he was.

I know one person who was not misunderstood, the Vice President, who spoke on the record in a disclosed location, Seattle, Washington. This is worth repeating, given the Vice Presidential debates tonight. The Seattle Post Intelligencer and its columnist Joel Connelly found a transcript of a 1992 Seattle appearance by then Defense Secretary DICK CHENEY. He was explaining why the U.S. had left Saddam in Iraq after the first Gulf War, and this is a direct quote: ''And the question in my mind is how many additional American casualties is Saddam worth? And the answer is not that damned many. So I think we got it right, both when we decided to expel him from Kuwait, but also when the President made the decision we had achieved our objectives and we were not going to get bogged down in the problems of trying to take over and govern Iraq.'' Not going to get bogged down.

Does anyone think the Vice President will talk straight about this later tonight? Not a chance. And they wonder why the kids get it. Every time this administration says there will be no draft, the kids get online and the phones to my office and the office of the gentleman from New York (Mr. RANGEL) ring off the hook. The kids know the difference between the truth and Republican rhetoric.

H.R. 163 is out of solitary confinement, and it is in the open. What 18-year-old can believe an administration who said there were weapons of mass destruction, knowing their own people doubted it? What 18-year-old can believe they do not intend to get them to Iraq, whether they call it a draft or a precondition for a college loan? What 18-year-old can believe they will tell it straight when they pronounce ''mission accomplished'' over 900 casualties ago?

The kids know, Mr. Speaker. They know just like other generations. The kids are forcing their parents to look at reality and see the truth. The kids may have funny colored hair or a ring in their ear or nose, but they have a good head on their shoulders. Punk rock music may not be the in thing to listen to, but these kids are making voting the in thing to do, and the Republicans are terrified.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. STRICKLAND. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

LINK BETWEEN SADDAM HUSSEIN AND ATTACK ON UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, tonight there is going to be a debate in Cleveland, Ohio, my home State. I believe probably millions and millions of Americans will be watching. One of the things I hope they listen for is a question that I feel certain the Vice President will receive.

The Vice President, in spite of all evidence to the contrary, continues to say that there was a link between Iraq and Saddam Hussein and the attack upon our country.

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That is a very fundamental thing for the American people to consider, because I believe most Americans, if they believe that Saddam Hussein was responsible for attacking our country on September 11, 2001, they would feel that what we have done by going into Iraq was totally justified.

But all of the evidence from really authoritative sources, and I am talking about the 9/11 Commission and most recently I am talking about the FBI, has indicated that there was no connection between Saddam Hussein, Iraq and the attack upon America. Just yesterday, the FBI indicated that as far as they can tell, there was no collaboration between Saddam Hussein and the al Qaeda terrorism network.

And so we find ourselves tonight bogged down in a war that has consumed over 1,000 American lives, has resulted in the injury of nearly 7,000 American soldiers, and we are finding ourselves unable to establish any connection between Iraq and the attack upon our country. And so while we are losing soldiers, while we are spending billions of dollars, while we are seeing the terrible injuries to our soldiers in Iraq, Osama bin Laden, the individual who was in fact responsible for attacking our country, the al Qaeda terrorism network, is now spreading throughout the world.

What we have done in Iraq is not unlike what some of my friends used to do as young kids, going into the woods and finding a hornets' nest and throwing rocks or walnuts at it and stirring up the hornets and then having to suffer with the consequences of that. There is a way you can capture the hornets' nest as a trophy to hang in your barn or in your garage, but you need to use your head, you need to be prepared, you need to take equipment, you need to have a screen to put over yourself, you need to go to that hornets' nest when there is not a lot of hornet activity around it. You need to plug the hole where the hornets go in and out of that nest before you attempt to take it from the tree.

But, no, that is not the way we attacked or planned the attack on Iraq. It was like a kid taking a stick and starting to beat a hornets' nest. The hornets are now out there.

Iraq has become a hotbed for terrorism. The President says Iraq is the central part of our war on terrorism. It may be now, but it was not before this war started. There is no evidence that the terror network was operating in Iraq. But now we have created a situation where terrorists from all over the world are gathering in that country, and they are fighting and they are killing our people.

Our resources are being consumed. And the President has no plan to free us from this morass and the Vice President continues to say to the American people that there was a connection, in spite of the 9/11 Commission report, in spite of what the FBI says.

I believe the American people want us to fight the terrorists. I want us to fight the terrorists. That is why nearly all of us, save one, voted to support the war in Afghanistan. And as Senator KERRY reminded the President in the debate a few nights ago, it was Osama bin Laden who attacked us. It was the al Qaeda terror network that attacked us. It was not Saddam Hussein and Iraq. The American people need to be aware of that as they decide who they want to be the person that makes the decisions regarding our foreign policy in the years ahead of us.

The SPEAKER pro tempore (Mr. MURPHY). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ROSS) is recognized for 5 minutes.

(Mr. ROSS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

(Mrs. CHRISTENSEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

(Mr. ALLEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

AMERICA'S HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address the issue of America's health care. Are we better off than we were 4 years ago? A quick look at the facts tells us that we are far from it.

Just this summer, the Census Bureau announced that the number of people without health insurance nationwide went up by 1.4 million—the third annual increase in a row. Forty-five million people are uninsured, many because they have lost their jobs. Over 5 million people have lost their health insurance since the beginning of the Bush administration.

The Current Population Survey (CPS) is the primary source for data on Texas' uninsured population. It paints a picture for the state of health care in Texas. My homes State currently has the second highest rate of uninsured in the United States behind New Mexico. CPS data shows that there were 4.5 million people without health insurance in Texas, which is about 21.4 percent of the total population.

The President said we're turning the corner, but we have to look at the facts. Efforts to improve our economy are not reaching people of color.

African Americans are losing their jobs at nearly twice the national average. Latino unemployment hovers near a 5-year high. These numbers are an outrage and are unacceptable.

The higher unemployment rate for people of color is a major contributing factor to the health disparity affecting a large percentage of uninsured minorities. Blacks and Latinos are far more likely to be uninsured when compared to their Anglo counterparts.

Nationally, 11.6 percent of the Anglo population, 20.1 percent of the African-American population and 34.8 percent of the Hispanic population are without health insurance. In my home State of Texas, while 12 percent of whites are uninsured, 21.2 percent of African Americans and 36.7 percent of Hispanics do not have medical coverage.

Unfortunately, the rates for children without health coverage are also reaching alarming numbers.

In the United States today, one in five children is without health insurance. In fact, in my home State of Texas 1.6 million children depend solely on health insurance provided by Medicaid. Limited access to health care contributes to growing rates of disease among children.

Studies have shown that good health is a prerequisite for optimal learning and schools can help studies achieve academic success by participating in efforts that promote good health, including access to regular medical and mental health care.

Protecinting the health care of children should be the number one priority of any great nation. An investment in the health care of our youth is one of the wisest investments we can make for the future of this country.

No, Mr. Speaker, when it comes to health care, we are not better off than we were 4 years ago, and we can and should do better.

Now is the time for all Americans to have access to quality health care and meaningful patient protection. Our citizens deserve and expect nothing less.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

(Mr. SHERMAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

(Mr. LANGEVIN address the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

(Ms. WATSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. TURNER) is recognized for 5 minutes.

(Mr. TURNER of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

(Mr. RYAN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

(Mr. INSLEE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10011. A letter from the Deputy Secretary, Department of Defense, transmitting Certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of Wedges 2 through 5 of the Pentagon, cumulatively, will not exceed four times the total cost for the planning, design, construction and installation of equipment for the renovation of Wedge 1, pursuant to 10 U.S.C. 2674 Public Law 108–87, section8055(a); to the Committee on Armed Services.

10012. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Admiral Frank L. Bowman, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

10013. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral James C. Dawson, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

10014. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of General Hal M. Hornburg, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

10015. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Admiral Thomas B. Fargo, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

10016. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the DoD Mentor-Protege Program Annual Report for 2004, pursuant to Public Law 101—510, section 831; to the Committee on Armed Services.

10017. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to convert to contractor performance by private sector Public Works Center Mainenance and Hazardous Materials of the Washington, DC metro area (initiative number NC20010699); to the Committee on Armed Services.

10018. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the first annual report to Congress on the Defense Acquisition Challenge Program for FY 2003, pursuant to 10 U.S.C. 2359b(i); to the Committee on Armed Services.

10019. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the State of Qatar pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

10020. A letter from the Chairman, National Credit Union Administration, transmitting the Administration's Combined Annual Performance Report 2003/Initial Annual Performance Plan 2005 and Annual Performance Plan 2004, prepared in accordance with the Government Performance and Results Act and OMB Circular No. A-11; to the Committee on Government Reform.

10021. A letter from the Chairman, Securities and Exchange Commission, transmitting the annual report of the Securities Investor Protection Corporation for the year 2003, pursuant to 15 U.S.C. 78ggg(c)(2); to the Committee on Financial Services.

10022. A letter from the Secretary, Department of Education, transmitting a follow-up report on the recommendations of Presidential Advisory Committee, pursuant to section 6(b) of the Federal Advisory Committee Act, as amended; to the Committee on Education and the Workforce.

10023. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone; Listing of Substances in the Foam Sector [OAR-2003-0228, FRL-7821-6] (RIN: 2060-AG12) received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10024. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Minnesota; Sulfur Dioxide; United Defense [R05-OAR-2004-MN-0001; FRL-7794-5] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10025. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Carbon Monoxide Maintenance Plan Update; Limited Maintenance Plans. [R01-OAR-2004-CT-0003; A-1-FRL-7801-2] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10026. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to New Source Review Rules [RME Docket Number R08-OAR-UT-0002; FRL-7791-7] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10027. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions [RME Docket Number R08-OAR-2004-CO-0002; FRL-7809-2] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10028. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implemenation Plans; Virginia; Update to Materials Incorporated by Reference [VA160-5083; FRL-7808-8] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10029. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval ad Promulgation of Implementation Plans for California-San Joaquin Valley PM-10 [CA-121-CORR; FRL-7807-2] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10030. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Source Review; State of Nevada, Clark County Department of Air Quality and Environmental Management [NV054-081; FRL-7808-7] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10031. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Standards for Hazardous Air Pollutants for Secondary Aluminum Production [OAR-2002-0084; FRL-7808-2] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10032. A letter from the Chairman, Federal Communications Commission, transmitting a report on Auction Expenditures for FY 2003, pursuant to the Balanced Budget Act of 1997, as codified in Section 309(j)(8)(B) of the Communications Act of 1934, as amended; to the Committee on Energy and Commerce.

10033. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Canada for defense articles and services (Transmittal No. 04-39), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

10034. A letter from the Director, International Cooperation, Department of Defense, transmitting Pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, Transmittal No. 10-04 informing of an intent to sign a Memorandum of Understanding Concerning Cooperation in Post-Production Support of Harrier Aircraft with Italy, Spain, and the United Kingdom and a Project Agreement with Italy Concerning Post-Production In-Service Support of the T/AV-8B Aircraft, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

10035. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed lease of defense articles or defense services to the Czech Republic (Transmittal No. DDTC 078-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

10036. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Sections 101 and 102(b) of the Arms Export Control Act, the President has determined and certified that it is in the national interest to waive restrictions and allow the Export-Import Bank to support United States exports to Libya (PD 2004-44), with an accompanying justification by the Secretary, in accordance with Section 2(b)(4) of the Export-Import Bank Act of 1945, as amended; to the Committee on International Relations.

10037. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the heading ''Loan Guarantees to Isreal'' in Chapter 5 of Title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108-11); to the Committee on International Relations.

10038. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification for the waiver of loan default sanctions under Section 620(q) of the Foreign Assistance Act to support the Government of Ethiopia; to the Committee on International Relations.

10039. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Presidential Determintion (No. 2004-52) and an explanation of relevant factors that support rescinding the designation of Iraq as a state sponsor of terrorism with respect to Section 6(j)(4)(A) of the Export Administration Act of 1979, Pub. L. 96-72, as amended, and as continued in effect by Executive Order 13222 of August 17, 2001; section 620A(c)(1) of the Foreign Assistance Act of 1962, Pub. L. 87-195, as amended; and Section 40(f)(1)(A) of the Arms Export Control Act, Pub. L. 90-629, as amended; to the Committee on International Relations.

10040. A letter from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting the Department's Annual Report on grants streamlining and standardization, covering the period from May 2003 to May 2004, pursuant to Public Law 106–107, section 5 (113 Stat. 1488); to the Committee on Government Reform.

10041. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10042. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10043. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled ''Annual Report to Congress on Implementation of Public Law 106-107''; to the Committee on Government Reform.

10044. A letter from the Associate Special Counsel for Legal Counsel and Policy, Office of Speical Counsel, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10045. A letter from the Director, Officer of Personnel Management, transmitting the Chief Human Capital Officers (CHCO) Council's Report to Congress covering FY 2003, pursuant to 5 U.S.C. 1401 note Public Law 107—296 section 1303(d); to the Committee on Government Reform.

10046. A letter from the Chairman, Commission on Ocean Policy, transmitting the final report on the recommendations for a national ocean policy entitled, ''An Ocean Blueprint for the 21st Century,'' pursuant to PublicLaw 106—553, section Title V (114 Stat. 2762A—98); to the Committee on Resources.

10047. A letter from the Assistant Secretary for Policy, Management, & Budget, Department of the Interior, transmitting the Department's report on the administration of the Marine Mammal Protection Act of 1972, covering calendar years 1999 and 2000, pursuant to 16 U.S.C. 1373(f); to the Committee on Resources.

10048. A letter from the Assistant Attorney General, Department of Justice, transmitting a copy of a report required by the ''21st

Century Department of Justice Appropriations Authorization Act,'' related to certain settlements and injunctive relief, pursuant to 28 U.S.C. 530D Public Law 107—273, section202; to the Committee on the Judiciary.

10049. A letter from the Deputy Executive Director, Reserve Officers Association, transmitting the Association's report of audit for the year ending March 31, 2004, pursuant to Public Law 90–595, section 16; to the Committee on the Judiciary.

10050. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patapsco River, Baltimore, MD [CGD05-04-157] (RIN: 1625-AA08) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10051. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Susquehanna River, Port Deposit, MD [CGD05-04-143] (RIN: 1625-AA08) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10052. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; 2004 MTV Video Music Awards, American Airlines Arena, Port of Miami, Miami, FL [CGD07-04-103] (RIN: 1625-AA08) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10053. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Wiscasset, Maine, Demolition of Maine Yankee former containment building [CGD01-04-099] (RIN: 2115-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10054. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut [CGD01-04-111] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10055. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Delaware River, [CGD05-04-170] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Anchorage Grounds and Safety Zone; Delaware Bay and River [CGD05-04-172] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone: Protection of Large Passenger Vessels, Portland, OR [CGD13-04-031] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Bayou Lafourche, Clotilda, LA [CGD08-04-024] (RIN: 1625-AA09) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10059. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Massalina Bayou, Panama City, FL [CGD08-04-031] (RIN: 1625-AA09) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10060. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Connecticut River, CT. [CGD01-04-105] received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10061. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Fore River, Me. [CGD01-04-114] received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10062. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lexington, NE. [Docket No. FAA-2004-18011; Airspace Docket No. 04-ACE-40] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10063. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE); CT7-2D1 Turboshaft Engines [Docket No. FAA-2004-18758; Directorate Identifier 2004-NE-24-AD; Amendment 39-13763; AD 2004-16-07] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10064. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [DOcket No. 2003-NM-107-AD; Amendment 39-13765; AD 2004-16-09] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10065. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757 and 767 Airplanes [Docket No. 2003-NM-83-AD; Amendment 39-13767; AD 2004-16-11] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10066. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes Equipped with Off-wing Escape Slides [Docket No. 2002-NM-151-AD; Amendment 39-13766; AD 2004-16-10] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10067. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-400, -401, and -402 Airplanes [Docket No. 2002-NM-132-AD; Amendment 39-13769; AD 2004-16-13] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10068. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Thales Avionics Traffic Advisory/Resolution Advisory (TA/RA) Vertical Speed Indicator-Traffic Alert and Collision Avoidance System (VSI-TCAS) Indicators, Installed on But Not Limited to Certain Transport Category Airplanes Equipped with TCAS II Change 7 Computers (ACAS II) [Docket No. 2002-NM-284-AD; Amendment 39-13770; AD 2004-16-14] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10069. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146-RJ Series Airplanes [Docket No. 2003-NM-92-AD; Amendment 39-13762; AD 2004-16-06] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10070. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2000-NM-419-AD; Amendment 39-13761; AD 2004-16-05] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10071. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Model Gulfstream 200 Airplanes [Docket No. 2002-NM-325-AD; Amendment 39-13759; AD 2004-16-03] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10072. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3 Series Airplanes [Docket No. 2002-NM-209-AD; Amendment 39-13758; AD 2004-16-02] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10073. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters Inc. Model MD900 Helicopters [Docket No. 2004-SW-10AD; Amendment 39-13764; AD 2004-16-08] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10074. A letter from the Porgram Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters [Docket No. 2004-SW-14-AD; Amendment 39-13755; AD 2004-15-21] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10075. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Shungnak, AK [Docket No. FAA-2004-17661; Airspace Docket

No. 04-AAL-08] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10076. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; King Salmon, AK [Docket No. FAA-2004-17660; Airspace Docket No. 03-AAL-09] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10077. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace Area; Mount Clemens, MI [Docket No. FAA-2003-16705; Airspace Docket No. 03-AGL-20] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10078. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, NE. [Docket No. FAA-2004-18013; Airspace Docket No. 04-ACE-42] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10079. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Urbana, OH [Docket No. FAA-2004-16963; Airspace Docket No. 04-AGL-01] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10080. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Georgetown, OH [Docket No. FAA-2004-17093; Airspace Docket No. 04-AGL-02] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10081. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Janesville, WI [Docket No. FAA-2004-17092; Airspace Docket No. 04-AGL-07] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10082. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; Camp Douglas, WI [Docket No. FAA-2004-17136; Airspace Docket No. 04-AGL-08] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10083. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; Rochester, MN; Modification of Class E Airspace; Rochester, MN. [Docket No. FAA-2004-17163; Airspace Docket No. 04-AGL-10] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10084. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; South Haven, MI [Docket No. FAA-2004-17096; Airspace Docket No. 04-AGL-05] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10085. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kalamazoo, MI [Docket No. FAA-2004-17095; Airspace Docket No. 04-AGL-04] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10086. A letter from the Chairman, Interagency Coordinating Committee on Oil Pollution Research, Department of Homeland Security, transmitting the Department's report on the Interagency Coordinating Committee on Oil Pollution Research for FY 2003 and 2004, pursuant to 33 U.S.C. 2761(e); to the Committee on Science.

10087. A letter from the Assistant Secretary of Defense for Health Affairs and the Acting Under Secretary for Health, Departments of Defense and Veterans Affairs, transmitting as required by Section 8147 of the Department of Defense Appropriations Act for FY 2002, the Findings and Recommendations from the Department of Defense (DoD)/Department of Veterans Affairs (VA) Joint Assessment Study; jointly to the Committees on Armed Services and Veterans' Affairs.

N O T I C E

Incomplete record of House proceedings. Today's House proceedings will be continued in the next issue of the Record.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, OCTOBER 5, 2004 No. 124

Senate

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

PRAYER

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

Let us pray.

Almighty God, ruler of all nature, thank You for Your magnificent love that awakens us each day. When we are unfaithful, You continue to shower us with mercies. Thank You for a nation built on a foundation of freedom and for military heroes and heroines who stand daily in harm's way. Thank You for lawmakers who do justly, love mercy, and walk humbly with You. Guide their feet and teach them Your paths.

Lord, in these complicated times, show Yourself strong on behalf of those who love You. Solve the riddles that confound us. Confuse those who seek to hinder Your providence. Bring sanity to a world that often seems to spin out of control.

Lord, nothing is impossible for You. So transform our dark yesterdays into bright tomorrows.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a short period of morning business until 9:45 a.m. At 9:45 we will proceed to the vote on a motion to invoke cloture on the intelligence reform bill. If cloture is invoked, many of the pending amendments would fall as a result of a germaneness requirement under rule XXII. It is then hoped we will continue to process those germane amendments as we move toward final passage of the bill. It is my hope that cloture will be invoked and we can finish the bill either tonight or early tomorrow morning. The cloture rule, as Senators know, provides for a maximum of 30 hours. Hopefully all the time may not be necessary. Over the course of the morning, as various amendments are looked at, examined, and discussed, we will have a much better feel as to when we can bring closure to the bill.

I remind everybody that upon conclusion of this legislation, the Senate will turn to the other arm of intelligence reform, and that is the internal intelligence reform that has been put forth by our distinguished majority and minority whips who have been working with a task force of 22 Senators, appointed by Senator DASCHLE and myself, to address this significant reform within our own body.

Our scheduling is compressed more and more as we move closer to Friday. It will take the cooperation of all Senators to finish our work before adjourning. We have these two important arms of intelligence reform that we will address. There is other legislation that is in conference right now and progress is being made on the FSC/ETI manufacturing jobs bill. Of course, they will be meeting over the course of today as well. We have Homeland Security appropriations which is in conference, and I understand steady progress is being made.

Our goal is to adjourn on October 8, but all of this important business must be addressed before then. A lot of people are asking, is October 8 firm? In my mind, October 8 is the goal for us to complete our business, and we can complete our business if we continue the very good work by the managers on this bill, by the task force that is overseeing the development of the recommendations for our internal reform, and the conferences which I mentioned.

I thank Members for their cooperation, for working together in a bipartisan way on very important legislation, most of which addresses the safety and security of the American people.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

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

CONGRESSIONAL INTELLIGENCE REFORM

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, I ordinarily don't speak for other Senators, but I think I can speak for Senator MCCONNELL. We appreciate very much the majority leader and Senator DASCHLE's deliberateness in moving forward on reform, not only of the intelligence community but also congressional reform. It would be easy to put that aside, but I think it is important that we move forward as the 9/11 Commission recommended. They have said quite clearly, you can't do one without the other.

What we have done, working with the other 20 members of the task force, is come up with what political scientists say are some significant changes in the history of this body. I don't know if that is true or not, but there are some significant changes which would create a new Homeland Security authorizing committee that would not necessitate the Secretary, as he has this year, appearing 164 times before different committees and subcommittees. Eighty-eight different subcommittees and committees have jurisdiction over him. That is not good. The new Homeland Security committee will take jurisdiction from 10 different committees.

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

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We also are creating, from the pattern given to us by the 9/11 Commission, a very strong Intelligence Committee. And in the appropriations process, we have a subcommittee there. I spoke last night to Lee Hamilton, one of the cochairs. We have kept them advised as to everything we have done, and they are on board. They think what we are doing is totally in keeping with their recommendations. We haven't followed everything they wanted, but we have kept them advised along the way. We have a very good product.

Again, Senator MCCONNELL and I extend both to the majority leader and Senator DASCHLE our thanks for keeping your eyes on the prize and having us go forward, as difficult as it has been.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 9:40 a.m., with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

HELEN DEWAR

Mr. FRIST. Mr. President, I will speak within morning business.

As we move to adjourn at the end of this week, I fear we will lose sight of an important event which will take place at the end of the 108th Congress. Because at the end of this session, the Senate press corps will lose one of the most distinguished and accomplished members of that body.

After nearly 25 years of hallway stakeouts, quorum calls, late-night votes, pressing deadlines, takeout food, the Washington Post Senate reporter Helen Dewar plans to leave her position when we adjourn sine die. Before that happens, I believe it is appropriate to recognize Helen's outstanding career during which she has faithfully informed Post readers on the oftentimes complex and intricate actions of this body.

Since 1980, Helen Dewar has covered every major Senate debate—from budget battles and judicial nominations to the sweeping intelligence reforms we are making now. But Helen's special talent has been to bring clarity to the day-to-day operations of this body, the Senate. Helen Dewar is known for being tough, persistent, inquisitive, and thorough. Helen's direct style of asking questions gets right to the heart of matter. She never asks an important question just once; she asks until she is satisfied she has gotten as much as she can.

Born and raised in Stockton, CA, Helen Dewar earned her undergraduate degree in political science from Stanford University. Her first stint at the Post was filling paste pots for the then-Women's page. She left after one week for a reporting job on the Northern Virginia Sun. she returned to the Post in 1961 as a reporter and has worked steadily in that role since.

When Helen was getting started in the newspaper business, women had to struggle to get entry level jobs. It was rare for women to win a job covering politics at the Post back in the 1970s. Helen had to push hard to move from the ranks of the Metro staff to covering Jimmy carter's 1976 campaign, and then to winning the coveted assignment covering the Senate.

Helen began covering the Senate in late 1979. When Ronald Reagan swept to victory over President Carter in 1980, the Republicans claimed control of the Senate, and Helen was poised to cover a great story. As the Senate reporter who was also responsible for following the budget, Helen wrote extensively about the Reagan revolution. She covered the battle over President Reagan's 1981 tax cut and the Cold War military buildup.

Helen has covered virtually every major story on the Hill during the past 20 years, from Reaganomics to Iran-contra, ethics investigations, the fight over the Gulf War resolution, to the impeachment of President Clinton. During election season, she covered Senate election battles and how they might impact national policy. Helen has reported on the career of seven Senate majority leaders, including ROBERT BYRD, HOWARD BAKER, BOB DOLE, GEORGE MITCHELL, TOM DASCHLE, TRENT LOTT, and myself. The hallmark of Helen's reporting has been fairness, integrity, clarity and scrupulous attention to detail.

Helen is regarded by her colleagues as the dean of the Congressional Press Corps. She intently focuses on detail and comes from the school of journalism where the story is more important than the journalist. The hallways of the Capitol and Tuesday stakeouts will not seem the same without her. I offer my warmest wishes to Helen Dewar in all her future endeavors. Her colleagues here on the Hill and in the Post newsroom will miss her. But those who will feel her departure most acutely will be her thousands of readers who, for more than two decades, have looked to her to provide a succinct, unvarnished account of the activities of their elected officials.

I yield the floor

Mr. DASCHLE. Mr. President, I join the majority leader in applauding the remarkable career of Helen Dewar, the dean of the Senate press corps.

As Senator FRIST mentioned, Helen will be leaving her beat as the Washington Post's Senate correspondent at the end of this Congress. If I can borrow a phrase, not having Helen Dewar to kick us around anymore will be a loss for the Senate and for America.

Helen Dewar is a dogged reporter and graceful writer, and those gifts are rare enough, but she has possessed an even rarer gift. From the day she started the Senate beat, she has always known that you cannot understand the Senate just by walking these marbled Halls and making phone calls from a desk in the Capitol; you have to go out into America and talk to the people.

I recently came across what may be the first story Helen ever wrote from South Dakota. The date was July 2, 1980. It was a story about the centennial celebration of Arlington, SD, population 953. The headline read: ''Celebrating 100 Years Against the Odds.''

Helen described the town's parade as 2 miles long, ''considerably longer than the town itself.'' She recounted people's complaints—farm prices were too low and gas prices were too high.

Mostly, she captured the incredible pride people in Arlington felt for their community. ''The pride was so intense,'' she wrote, ''that a visitor from Washington, offering Arlingtonians a chance to sound off about government and politics, was told to forget all about that unpleasantness, grab a plate of barbeque and simply enjoy Arlington.''

Helen Dewar is a Washington institution, but she has never worn beltway blinders. For nearly 25 years, she has worked long, hard hours in the Senate, and when the Senate recesses, she has crisscrossed America to get the story—to explain to reporters what their Government is doing and why.

She is a reporter's reporter—tough, persistent, perceptive, and always fair. She has earned the respect of her colleagues, her sources, and her readers.

She has served American democracy well by helping to hold our Government accountable and to give the people the information and knowledge they need to make informed decisions about their Government.

After nearly 25 years covering this body, Helen is part of the institutional memory of the Senate. More than that, she is part of the heart of this place. It is a privilege and a pleasure to work with Helen, and I know we all wish her well in all her future endeavors.

The PRESIDENT pro tempore. Who seeks time?

The Senator from Georgia is recognized.

IRAQ

Mr. CHAMBLISS. Mr. President, for the past several days, I have followed the remarks of the senior Senator from Massachusetts relative to Iraq and the war on terrorism. He likes to talk more about yesterday and not as much about tomorrow. He finds fault in everything that the President and his team have done to protect our lives, our liberties, and our way of life. He interprets facts to fit his dismal view of Iraq.

What bothers me the most about his many public statements condemning the war in Iraq is that he does so while we still have troops engaged in securing that country. These troops know it is vital—absolutely vital—for the long-term security of the United States and our allies that they succeed in helping Iraq become a free and democratic country.

The most recent edition of the Army Times newspaper contains a very telling survey of Active Duty, Reserve and National Guard troops on their views of Iraq and the Presidential race which bears out this point. This is the October 11th edition of the Army Times.

I ask unanimous consent that the article, which appears beginning on page 14, be printed in the RECORD.

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

[From the Army Times]

THE MILITARY

(By Gordon Trowbridge)

President Bush retains overwhelming support among the military's professional core despite a troubled mission in Iraq and an opponent who is a decorated combat veteran, a Military Times survey of more than 4,000 readers indicates.

Bush leads Democratic Sen. John Kerry 73 percent to 18 percent in the voluntary survey of 4,165 active-duty, National Guard and reserve subscribers to Army Times, Navy Times, Marine Corps Times and Air Force Times.

Though the results of the Military Times 2004 Election Survey are not representative of the opinions of the military as a whole, they are a disappointment to Democrats who hoped Kerry's record and doubts about Bush would give their candidate an opening in a traditionally Republican group with tremendous symbolic value in a closely contested election.

''For a long time, Kerry thought he had a chance to win the mantle and beat Bush on the issue of who could be the better commander in chief,'' said Peter Feaver, a political science professor at Duke University who has written extensively on civil-military relations and the political opinions of those in uniform.

Feaver said journalists and political analyst focus heavily on the opinions of military members because of a situation the nation hasn't faced in more than 30 years: a heated presidential race amid a difficult and controversial war.

While the survey found some readers with doubts about Bush's handling of the war in Iraq, there was remarkable consistency in their views of the two candidates.

Officers and enlisted troops, active-duty members and reservists, those who have served in combat zones and those who haven't, all supported Bush by large margins. And the survey hints that Kerry's emphasis of his decorated service in Vietnam may have done more harm than good with those in uniform.

''FROM THE HEART''

''It's about honesty and integrity,'' said Marine Sgt. Jason Jester, who was interviewed separately from the survey.

Jester, a recruiter from Winston-Salem, N.C., voted for Bush in 2000 and plans to do so again.

''He might not always make the right decisions, but I think the decisions he makes come from the heart.''

To conduct the survey, Military Times e-mailed more than 31,000 subscribers Sept. 15. They were invited to access an Internet site seeking their opinions on the presidential race and related issues. From Sept. 21 to 28, and before the first presidential debate on Sept. 30, a total of 2,754 active-duty and 1,411 reserve and Guard members took part.

The nature of the survey led experts to caution against reading the results as representative of the military as a whole.

Unlike most public opinion polls, the Military Times survey did not randomly select those to question. Instead, subscribers with e-mail addresses on file were sent an invitation. That means there is no statistical margin of error for the survey—so it's impossible to calculate how accurately the results reflect the views of Military Times readers.

The surveyed group is older, higher in rank and more career-oriented than the military as a whole. Junior enlisted troops in particular are underrepresented in the group that responded.

But as a snapshot of the careerist core of the armed services, the survey holds little good news for Kerry, revealing a group with strong Republican leanings that the Democratic challenger has not shaken. Among the findings:

Echoing previous Military Times polls and other research, the survey found a group with a close affinity for the Republican Party. About 60 percent of those surveyed identified themselves as Republicans, while 13 percent consider themselves Democrats and 20 percent independents. Among the general population, pollsters usually find voters evenly divided among Republicans, Democrats and independents.

Mr. CHAMBLISS. Mr. President, the caption is: ''Troops sound off. Who do you choose for President and why?''

Among Active-Duty forces, 66 percent in this poll said the most important issue for them in deciding for whom to vote is the war in Iraq. In the same poll, 60 percent said they approve of the way President Bush is handling the situation in Iraq, and 72 percent said if the Presidential election were held today, they would vote for President Bush. That is quite a statement of support for the Commander in Chief and his policies in Iraq from those who are actually doing the fighting and the dirty work to bring security and prosperity to that country.

Even more significant are the results from the Reserve and National Guard troops who have been called to active duty and deployed to Iraq. Among this group, 72 percent said the most important issue for them is the war in Iraq; 63 percent approve of the President's policies in Iraq; and a full 76 percent of the Reserve and National Guard soldiers who have actually been deployed to a combat zone said they are planning on voting for President Bush. These are amazing figures from both our Active Duty and Reserve Forces that tell us much more about what is going on in Iraq than just the reports of the bombings and kidnaping.

Listening to the assessments from my colleague from Massachusetts begs the question: Why do the vast majority of our soldiers and marines engaged in ground operations in Iraq appreciate the importance of our mission there and believe they are engaged in a historical struggle that will lead to a better world and a safer America when a senior Senator cannot see the same thing? Are they right or is he right?

As I reflect on the words of the Senator from Massachusetts, I am reminded of that famous quotation made by McLandburgh Wilson:

Twixt the optimist and pessimist,
The difference is droll:
The optimist sees the doughnut,
But the pessimist sees the hole.

When it comes to Iraq and the war on terrorism, my colleague from Massachusetts sees the hole, when he should be seeing the doughnut.

I suspect that nothing we say in this Chamber will change his views on the issue. Nevertheless, I feel obligated to make some remarks about why our troops are fighting in Iraq, and why some are giving the ultimate sacrifice for our country. It is important for our troops and their families to know that not all Senators only see the ''hole.''

Our policy in Iraq should not be viewed in isolation. The issue is far more complex than that. It is important to understand the linkage between the Islamic terrorists who want to destroy us and the totalitarian regimes under which so many of them were raised. People who have such a deranged view of a Supreme Being that they believe their religion sanctions their own suicide, while killing innocent people, and do not come from free, open, and democratic countries and societies.

Let me explain how I look at Iraq and the war on terrorism. If we look at each incident individually, each bombing, each hostage taking, each killing, et cetera, we get one impression of these events. What we should do instead is put ourselves in the place of an eagle soaring high and looking down on everything that is going on inside of Iraq.

When we take the eagle's view, this is what we see: Iraq is no longer a sanctuary for terrorists, it is no longer a country that threatens its neighbors, and it is no longer a threat to world peace and order.

The insurgency in Iraq is confined to 3 of the 18 provinces, and the country is preparing for its first democratic election only 4 months from now.

Iraqi leaders, Iraqi soldiers, and Iraqi policemen are stepping forward in the thousands to take back their country from the terrorists.

All we have to do to see what progress is being made in this area is to look at the success we have had just over this weekend. It was not just American troops who had success in Samarra, one of the most violent places inside of Iraq; it was the now-trained Iraqi security police who fought side by side with the American troops, who received the praise of the American troops for the training, preparation, and the great job they did in not just helping secure the peace but driving the insurgents out of that town and providing a safer and more secure

community in which the people could live.

America, along with many other countries, remains firm and will not be deterred from achieving the goal of seeing a democracy in Iraq.

There is a realistic understanding of the difficulties and dangers in Iraq, but there are also visionary, optimistic leaders in Iraq and in the many countries that make up the multinational force who are determined to see the insurgency fail.

There have been many references to the July 2004 National Intelligence Estimate, or the NIE. In fact, Senator KENNEDY said in this Chamber on 29 September 2004 that the best case scenario in that NIE was that violence in Iraq would continue at current levels, with tenuous political and economic stability. Regardless of what this classified NIE actually said, I do know it was based on information that is but a snapshot in time and that time continues to move on.

There are many things visible today that were not clear when that NIE was written. The character of the Iraqi leadership was unknown last June, but no one who heard Prime Minister Allawi speak to the Joint Session of Congress recently could be anything but impressed with his enthusiasm, his intellect, and, most importantly, his determination to see a free and safe and democratic Iraq.

Lieutenant General Petraeus has been working assiduously to build up the Iraqi security forces. Last June, when the NIE was written, very few of those forces had completed their training. Now trained and competent Iraqi Army and police units are on duty and are assuming the major role in restoring security in their own country, and the training continues, so we can expect even more Iraqi security forces to assume their duties every month, just as they did in Samarra this past weekend.

We are engaged in an enormous struggle of historic proportions to see freedom and democracy spread throughout the Islamic world, and this will set the foundation for a final peaceful solution between Israel and Palestine. It will also, in the long term, eliminate the politically oppressive environment and poor economic conditions that have been the breeding grounds for terrorists to find new recruits.

I want to say to our military personnel and their families that your role in this historic and important struggle is the key to its success. You will look back with pride on your contributions and your sacrifices to make our country and the world safer. When you see what you have accomplished from an eagle's view, you will not see the hole that a pessimist sees.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that notwithstanding morning business, it now be in order to consider amendments to the pending intelligence reform bill, and for the information of all Senators, these are amendments that have been cleared on both sides. This will only take a few moments.

The PRESIDING OFFICER (Mr. CHAMBLISS). Is there objection?

Mr. STEVENS. Reserving the right to object, I intended to speak for 1 minute before the time had expired for morning business. Will the Senator yield for just one brief comment?

Ms. COLLINS. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Alaska.

INTELLIGENCE REFORM

Mr. STEVENS. Mr. President, this bill came to the floor on September 27. It was debated a few hours, the 28th and 29th similarly. On the 30th, it was debated about half a day. Yesterday, we started business on the bill sometime around noon. Today, we are voting cloture on the seventh calendar day, but probably less than 3 days of debate. I think this rush is unbecoming of the Senate.

I shall oppose cloture, and I want the record to show I do not think this subject, reform of the intelligence community, has ever taken such a short period of time. We are acting under pressure primarily from two men whose business was through when they filed their report. I am appalled that we are moving at this pace.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note that the debate on this bill has been extensive. The Senator from Connecticut and I were here until 9 p.m. last night. We were here until after 6 o'clock on Friday. We have been here, although others have not been here, debating all day every day.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

AMENDMENT NO. 3933, AS MODIFIED

Ms. COLLINS. Mr. President, the first amendment I call up is amendment No. 3933, as modified, with the changes that are at the desk. This is an amendment from Senators CANTWELL, SESSIONS, SCHUMER, and KYL.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Ms. CANTWELL, herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL, proposes an amendment numbered 3933, as modified.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Biometric Visa Standard Distant Borders Act''.

(b) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

''(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

''(1) IN GENERAL.—Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

''(2) SAVINGS CLAUSE.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).''.

The PRESIDENT pro tempore. The amendment is pending. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3933), as modified, was agreed to.

AMENDMENT NO. 3957

Ms. COLLINS. Mr. President, I now call up a managers' amendment that is at the desk and, again, has been cleared on both sides of the aisle.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, and Mr. LIEBERMAN, proposes an amendment numbered 3957.

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

The PRESIDENT pro tempore. Is there further debate on this amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 3957) was agreed to.

AMENDMENTS NOS. 3712, AS MODIFIED, AND 3768, AS FURTHER MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent, notwithstanding morning business, that I send two amendments to the desk and ask the pending amendment also be set aside, to S. 2845.

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

Ms. COLLINS. On behalf of Senator ROCKEFELLER and Senator BAUCUS, these amendments have been cleared on both sides and I urge their adoption en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments were agreed to, as follows:

AMENDMENT NO. 3172, AS MODIFIED

(Purpose: To provide improved aviation security)

At the appropriate place, insert the following:

TITLE —AVIATION SECURITY

SEC. —01. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator may develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric1 measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration may use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. —02. AIRCRAFT CHARTER CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of charter aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to charter an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to charter an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) PRIVACY SAFEGUARDS.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of chartering aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) TRANSFER.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of chartering air carriers to the public to the Secretary.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section precludes the Secretary from requiring operators of charter aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this section.

SEC. —03. AIRCRAFT RENTAL CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of rental aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to rent an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to rent an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) PRIVACY SAFEGUARDS.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of renting aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) TRANSFER.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of renting aircraft to the public to the Secretary.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section precludes the Secretary from requiring operators of rental aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this section.

SEC. —04. REPORT ON RENTAL AND CHARTER CUSTOMER PRESCREENING PROCEDURES.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to Congress on the feasibility of extending the requirements of section —02, section —03, or both sections to apply to aircraft with a maximum certificated takeoff weight of 12,500 pounds or less.

(b) ISSUES ADDRESSED.—The report shall—

(1) examine the technology and communications systems needed to carry out such procedures;

(2) provide an analysis of the risks posed by such aircraft; and

(3) examine the operational impact of proposed procedures on the commercial viability of that segment of charter and rental aviation operations.

SEC. —05. AVIATION SECURITY STAFFING.

(a) STAFFING LEVEL STANDARDS.—

(1) DEVELOPMENT OF STANDARDS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO ANALYSIS.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) REPORT TO CONGRESS.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process, including the use of maximum time delay goals of no more than 10 minutes on the average.

(b) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. —06. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) RESEARCH AND DEVELOPMENT; DEPLOYMENT.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) AUTHORIZATION FOR EXPIRING AND NEW LOIs.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) REPORTS.—The Secretary shall transmit an annual report for fiscal year 2005, fiscal year 2006, and fiscal year 2007 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. —07. AIR CARGO SECURITY MEASURES.

(a) ENHANCEMENT OF AIR CARGO SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) SUPPLY CHAIN SECURITY.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft, including targeted inspections of high risk items.

(c) INCREASED CARGO INSPECTIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the percentage of cargo screened or inspected is at least two-fold the percentage that is screened or inspected as of September 30, 2004.

(c) ALL-CARGO AIRCRAFT SECURITY.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"§ 44925. All-cargo aircraft security.

''(a) ACCESS TO FLIGHT DECK.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

''(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

''(A) requiring, to the extent consistent with engineering and safety standards, that all-cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

''(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

''(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

''(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

''(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

''(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

''(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

''(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.''.

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

''44925. All-cargo aircraft security.''.

SEC. —08. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. —09. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of Inspections and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. —10. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system;

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. —11. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled ''Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened'' (GAO–03–760), August, 2003.

SEC. —12. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of

biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. —13. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security $100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. —14. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

"§ 41512. Bereavement fares.

''Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

''41512. Bereavement fares''.

SEC. —15. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised list that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. —16. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'').

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. —17. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect explosives, including in chemical and plastic forms. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. —18. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving only as sworn Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. —19. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. —20. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance, subject to the availability of funds, to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. —21. EFFECTIVE DATE.

Notwithstanding any other provision of this act, this title takes effect on the date of enactment of this Act.

AMENDMENT NO. 3768, AS FURTHER MODIFIED

At the appropriate place, insert the following new section:

SEC. ____. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(b) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (a) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, this amendment goes to the heart of our debate over the structure and purpose of the U.S. intelligence community. My amendment addresses the allocation of resources at Treasury's Office of Foreign Assets Control, or OFAC.

Much of our attention has focused on the creation of a new, independent office to oversee our intelligence activities. Often lost in this debate are the details about many of the smaller, lesser known Federal agencies whose efforts are essential to our national security.

Even though many people don't know who they are, OFAC is one of our most powerful weapons in the war on terrorism, because it is charged with tracking down and identifying the international sources of terrorist financing.

Unfortunately, OFAC is also tasked with administration of the Cuba travel ban. As we all know, U.S. policy toward Cuba is a highly emotional and divisive issue. Still, I would doubt that anyone seriously thinks that travel by Americans to Cuba poses a larger or more serious threat to U.S. interests than al-Qaida or the insurgents in Iraq, or Syria, Iran or North Korea.

My colleagues might be surprised and disturbed, then, to learn that—at the direction of the State Department—OFAC diverts more of its personnel resources to imposition of the Cuba travel ban than to any other country or project-specific issue.

According to their records, the equivalent of 21 full-time OFAC employees are allocated to the Cuba travel ban. On the other hand, only 16 are allocated to the search al-Qaida's financial sources of support.

Less than 15 full-time employee resources are spent on the former Iraq regime and its insurgents, and less than 14 are spent on Iran. Less than 10 are allocated to Syria, Sudan, and Libya combined. Afghanistan doesn't even merit one full-time employee—it receives the attention of roughly 2/3 of one full-time OFAC employee. North Korea only gets ⅓.

In other words, more OFAC personnel resources are spent on the effort to prevent Americans from vacationing in Cuba than are spent to track down and shut off the sources of funds used by al-Qaida to carry out terrorist activities.

This is an appalling diversion of our resources. If we hope to defeat the disparate threats arrayed against U.S. interests—both here at home and abroad—we must dedicate our attention to the real dangers confronting us around the world. Wisely allocating our resources will better ensure our success.

The amendment I offer addresses this imbalance by requiring an annual report from OFAC on how it allocates its resources and the criteria it uses to make those resource decisions. It also outlines criteria that ought to be considered when prioritizing the threats posed by different countries and groups. Among these criteria are the likelihood that a country or organization is: planning or sponsoring a direct attack on U.S. interests; participating in a nuclear, biological, or chemical weapons development program; financing or allowing the financing of terrorists; or providing a safe haven to terrorists.

Colleagues, this is an issue of the highest importance. My amendment simply asks for common sense in the allocation of our limited resources. We cannot expect to win the war on terrorism if we refuse to dedicate our full and focused efforts to fighting it. In this time of crisis, the American people expect us to lead with vision and clarity. My amendment offers this.

I see no credible reason why OFAC should waste precious resources creating bureaucratic red tape for Montana producers who just want to negotiate legal agricultural sales to Cuba. Instead, OFAC should focus its resources where they are more urgently needed: on shutting down the financial networks of al-Qaida and other more serious threats to U.S. interests. That is why the Chairman of the Intelligence Committee supports this amendment, and that is why the American Farm Bureau Federation and the National Foreign Trade Council support this amendment.

I take this opportunity to thank Senator COLLINS and Senator LIEBERMAN, the chairwoman and ranking member managing this bill, and their staff, for all of their hard work on the Baucus-Roberts-Craig amendment.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized. There is no further time remaining on the majority side. The minority has until 9:40 a.m.

IMPROVED NUTRITION AND PHYSICAL ACTIVITY

Mr. BINGAMAN. Mr. President, I rise to speak briefly about an important bill that I hope we can pass before the Congress leaves town and adjourns this year. That is the IMPACT bill, of which Senator FRIST is the prime sponsor. I have cosponsored it and various other Senators have also cosponsored it.

This is a bill that passed the Senate. It is awaiting action by the House. I wanted today to come to the floor and urge the House to bring up that bill and pass it so it can be sent to the President for his signature.

Just last week, the Institute of Medicine released a report on childhood obesity. It is a report that I requested in 2001. The report indicates that the prevention of obesity in children and youth needs to be a national public health priority.

Obesity-associated annual hospital costs for children and youth have more than tripled in two decades to $127 billion. In adults, national expenditures associated with overweight and obesity in adults ranges from $98 billion to $129 billion annually. The report calls on the government, industry, media, health care professionals, the nonprofit organizations, State and local educational authorities, schools, parents, and families to take immediate steps to confront this epidemic. And the IMPACT bill I have referred to will address many of those issues.

The bill is of critical importance. It tries to focus attention on these issues. There are a variety of provisions in the bill that I think are extremely important. It will direct us toward finding solutions, first, by preparing the health care community to deal with obesity in terms of prevention, diagnosis, and intervention by adding obesity, overweight, and eating disorders to the list of priority conditions to be addressed in the health professions title VII training grants.

Second, IMPACT supports community-based solutions to increase physical activity and improve nutrition on a number of levels. It provides funding for demonstration projects in communities and schools and health care organizations and other qualified entities that promote fitness or healthy nutrition.

It authorizes the Centers for Disease Control to collect fitness and energy fitness expenditure information from children.

It directs the Agency for Health Care Research and Quality to review any new information related to obesity trends among various subpopulations, and includes such information in its health disparities report.

It allows States to use their preventive services block grant funds for community education on nutrition and increased physical activity. And it instructs the Secretary to report on what research has been done in this area of obesity.

There are a variety of other provisions in the bill. The legislation is an excellent first step in the fight to improve health. It is not the only step we need to take, but it is a first step.

We also need to assist our schools in providing healthy nutrition options and expanding physical activity programs. We need to grow the workforce such that people have access to the health care professions they need to prevent, diagnose, and treat obesity, and we need to ensure that Medicare and Medicaid provide the services necessary to help people prevent obesity and its complications.

These are not small goals, but they are critical to our Nation's health, both today and in the future.

I want to continue working with Senator FRIST and other colleagues in the Senate to find new ways to address

these goals, but before Congress adjourns this year we need to go ahead and call on the House to pass the legislation we have passed in the Senate. This is an important step and one that should not be delayed until the convening of a new Congress. I hope the House of Representatives will bring this legislation up quickly, will pass it, will send it to the President, and we can begin down the road of dealing with this serious problem that afflicts so many of our children.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. How much time is remaining?

The PRESIDENT pro tempore. There are 9 minutes 22 seconds remaining.

PRESIDENTIAL DEBATES

Mr. DURBIN. Mr. President, the debate last week between Senator KERRY and President Bush marked a milestone in this campaign. Some 65 million Americans tuned in to this debate, which is an extraordinary number, more than tune in to such popular television shows as the Oscars. Certainly, we believe that Presidential debates serve that audience even more.

It was an important debate because it signaled the beginning of the real campaign. Despite all the time, effort, and money, it appears that a large group of American voters are waiting to these closing weeks, listening closely to the candidates, to make the decision about how they will vote on November 2, one of the most historic elections we have witnessed in recent times.

The debate come Friday night is going to be equally, if not more, important. We will move from the critical issue of national security and foreign policy to issues of great importance related to the domestic situation in America: How are things going for America's individuals and families and businesses?

We believe, as we look at the record, that the choice is going to be very clear. We will use the same matrix, the same measure President Ronald Reagan used when he ran for President, when he asked very bluntly: Are you better off today than you were 4 years ago?

When it comes to the domestic issues, we believe there is a compelling case and a compelling argument that America is not better off today than it was 4 years ago when President George W. Bush was sworn in. The numbers speak for themselves. This President will have lost more jobs as President than any President in the history of the United States since Herbert Hoover.

I have to explain for those not old enough that Herbert Hoover's Presidency was a disaster. It was the Great Depression. America saw more suffering from families and businesses in that period of time than at any time in that whole era, and now we have a President who came to office, George Bush, saying, give me a chance with my economic policy, and by every objective standard the President's economic policies have failed. They have failed to create jobs. We have seen an exodus of good-paying jobs. In my State, 160,000 manufacturing jobs have been lost. Some have been replaced, but virtually every single replacement job pays less, offers fewer, if any, benefits, and families find themselves falling behind.

Look at the national numbers. Consider what has happened. We have seen median household income across America decline by 3.4 percent under President Bush. That means the earning power of American families has gone down under Bush's economic policies while the costs of living have gone up. Gasoline prices are up 22 percent over when the President was elected, college tuition at public 4-year institutions up 28 percent, and family health care premiums up 45 percent. This is a backbreaking statistic because individual families cannot afford to go without health care insurance protection, and yet the cost goes up every year. It becomes increasingly expensive and less coverage is offered.

What has the Bush administration done to help working families deal with these increased costs of living? Virtually nothing. They have offered tax cuts for the wealthiest people in America, with the blind faith that if the richest people in America are given more money, somehow working Americans and middle-income Americans will prosper. It has failed. It has not worked. The debate on Friday night will focus on that.

President Bush will be held accountable not just for the situation in Iraq and the standing of the United States in the world but in terms of what he has done or failed to do for families. Listen to what has happened since President Bush has taken office: 1.6 million private sector jobs have been lost; 5.2 million more Americans have no health insurance. Since President Bush has been President, 5 million Americans have lost their health insurance, and 4.3 million Americans have descended into poverty. They were above the poverty line when President Bush came in. His economic policies have driven them below.

Household debt has risen $2.3 billion as families borrow more money to try to keep up with the costs. Personal bankruptcies have hit a record high. The S&P 500 has dropped 15 percent, decimating retirement savings of families across the board. The No Child Left Behind Program has not been funded, shortchanged by billions of dollars. There has been $500 billion taken out of the Social Security trust fund, and keep this in mind: When President Bush took office, we had a $236 billion surplus. Today, we have a $422 billion deficit. In fact, some argue, including my colleague from Illinois, that it is almost $700 billion when the Social Security trust fund that has been raided is added in.

This President, a so-called fiscal conservative, has driven us more deeply in debt than any President in our history, has lost more jobs than any President in 70 years. How will he answer the most basic question: Is America better off today than it was 4 years ago? By every objective measurable standard, when it comes to the comfort and hope of American families, the Bush administration has failed time and time again. They have a foreign policy which has put us in a situation in Iraq with no end in sight. They have an economic policy giving tax cuts to wealthy people, which has no sensitivity to the struggles working families are facing.

So how are the constituents of President Bush doing, what he calls his base, the wealthiest people in America? Pretty well. HMO profits are up 84 percent, CEO compensation up 20 percent, corporate profits up 15.3 percent. They are doing great on Wall Street but not too great on Main Street, and that is what the issue is going to be in St. Louis at Washington University on Friday night when Senator KERRY faces President Bush in a townhall meeting, where families from across the Midwest can ask the questions on their mind. These are the questions they will ask because they reflect the reality of family life in America.

The President promised us compassionate conservatism. He has failed when it comes to conservatism, as we have record historic deficits. He has certainly failed when it comes to compassion, as he has not addressed the most basic issues: making certain families have good jobs, that they have health insurance to cover them in times of need, that they can afford the college tuition so their kids can have a better life than they have had. These are the issues we are going to face.

What will we do in the Senate after we have considered this important bill on intelligence? We will go to a tax bill which is now in conference, which is larded up with some of the worst special interest favors we have seen in the history of this Senate. That is the best this Republican-led Senate can do, is come up with that kind of a bill at the end to give away literally tens of billions of dollars in a deficit economy to special interest groups again in Washington.

What will we do in this tax bill to help working families and small businesses pay for health insurance? Absolutely nothing. What will we do to stop good-paying jobs, manufacturing jobs, from being outsourced to other countries? Scarcely anything. Very little. It

shows where the Republican priorities are on Capitol Hill and where the Republican priorities are in the White House, and it shows the clear choice that American voters are going to face on November 2.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The majority leader.

CLOTURE VOTE

Mr. FRIST. Madam President, in a very few minutes we come to a very important vote before this body, a vote that in many ways brings to a head the debate that has been on the floor the last week and a half to the last almost 2 weeks, a debate that focuses on the safety and security of the American people. This is a debate that does encompass a major reorganization to make our intelligence activities more efficient, more effective. The vote we will be taking in a few minutes is a product of us filing cloture at the end of last week to give focus to the debate.

I stand before you as majority leader to encourage our colleagues to vote for cloture. That means germane amendments will be considered. The amendments that have been introduced, that are pending, that are germane, will still be considered, can still be voted upon. In fact, germane amendments also that are brought to the floor can still be voted upon.

What it does mean is that over the next 30 hours we have a huge task and that task is to bring to closure and ultimately to a vote on this bill. It can be as long as 30 hours of debate but hopefully it will be much less than that. So I urge my colleagues to vote with the managers, with the leadership in the Senate for cloture on this very important bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I join the majority leader in our enthusiastic support for the vote we will soon cast. I hope colleagues on both sides of the aisle will take this important step. This is an opportunity to make a statement about our determination, on a bipartisan basis, to move this legislation forward.

Senators have come forth with a lot of good ideas. I respect them. I appreciate the quality of the debate that we have had. It has been a very good debate. But now comes a time when I think we need to limit further amendments to those which are very relevant to the legislation, germane, and that is what this vote will do. Three commissions have made recommendations that are reflected in the legislative work that is before us today. Now is our opportunity to build upon that commission work, to build upon what the committee has done so diligently, and to work together to move this legislative vehicle along to accommodate the schedule we have here in the Senate, as well as the recognition that we still have to work with our House counterparts to resolve whatever outstanding differences there may be with them.

This is an important vote. I hope, as I say, that we can speak with one voice with regard to completing our work and moving on to the second phase of our 9/11 response, which is the legislative reorganization. I join with the leader and express the hope we can have a resounding vote on cloture this morning.

I yield the floor.

Mr. LEVIN. Mr. President, I will not vote to invoke cloture on the National Intelligence reform bill at this time.

This legislation reforming the intelligence agencies of our Government is a critical step in strengthening our national defense and our homeland security. If this cloture vote succeeds, it will prematurely cut off debate and prevent relevant amendments which could improve this legislation from being considered by the Senate. There are about 57 amendments currently pending before the Senate on this bill and perhaps half will be prevented from even being considered if cloture is invoked.

This is far-reaching and complex legislation which reorganizes the basic elements of our intelligence community. We cannot afford to get it wrong or we will end up making us less secure. We owe it to our constituents and the Nation, if necessary, to stay a few days longer in Washington and finish the job right. Frustrating the right of Senators to offer relevant amendments aimed at improving this legislation is unwise.

Mr. FRIST. Madam President, finally, what to expect over the course of the day. The cloture vote will occur here in a couple of minutes. We strongly encourage votes for cloture. You heard the Democratic leader and myself, and you have heard the managers also make the strong case for cloture.

Immediately, amendments will be considered that are germane. The focus, hopefully, will be on amendments that have been introduced that are germane, so I encourage those proponents to come forward and talk to the managers immediately. The clock does start ticking as soon as this vote is completed. With that, we have a limited amount of time so we need aggressively to start addressing this, amendment by amendment, on the floor.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation.

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators.

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies.

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship.

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck.

Reid (for Schumer) Amendment No. 3891, to improve rail security.

Reid (for Schumer) Amendment No. 3892, to strengthen border security.

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States.

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reed Amendment No. 3908, to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security.

Reid (for Corzine/Lautenberg) Amendment No. 3849, to protect human health and the environment from the release of hazardous substances by acts of terrorism.

Reid (for Lautenberg) Amendment No. 3782, to require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities.

Reid (for Lautenberg) Amendment No. 3905, to provide for maritime transportation security.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3739, to ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis.

Roberts Amendment No. 3750, to clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis.

Roberts Amendment No. 3747, to provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of

the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Kyl Amendment No. 3926, to amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States.

Kyl Amendment No. 3881, to protect crime victims' rights.

Kyl Amendment No. 3724, to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Collins (for Inhofe) Amendment No. 3946 (to Amendment No. 3849), in the nature of a substitute.

Sessions Amendment No. 3928, to require aliens to make an oath prior to receiving a nonimmigrant visa.

Sessions Amendment No. 3873, to protect railroad carriers and mass transportation from terrorism.

Sessions Amendment No. 3871, to provide for enhanced Federal, State, and local enforcement of the immigration laws.

Sessions Amendment No. 3870, to make information sharing permanent under the USA PATRIOT ACT.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Collins (for Cornyn) Amendment No. 3803, to provide for enhanced criminal penalties for crimes related to alien smuggling.

Collins (for Baucus/Roberts) Modified Amendment No. 3768, to require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury.

Frist (for McConnell) Amendment No. 3930, to clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act.

Frist (for McConnell) Amendment No. 3931, to remove civil liability barriers that discourage the donation of equipment to volunteer fire companies.

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities.

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program.

Stevens Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency.

Warner Amendment No. 3875, to clarify the definition of National Intelligence Program.

Warner Amendment No. 3874, to provide for the treatment of programs, projects, and activities within the Joint Military Intelligence Program and Tactical Intelligence and Related Activities programs as of the date of the enactment of the Act.

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas.

Reid (for Leahy) Amendment No. 3915, to establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center.

Reid (for Leahy) Amendment No. 3916, to strengthen civil liberties protections.

Collins (for Frist) Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority.

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees.

Sessions (for Grassley) Amendment No. 3850, to require the inclusion of information regarding visa revocations in the National Crime Information Center database.

Sessions (for Grassley) Amendment No. 3851, to clarify the effects of revocation of a visa.

Sessions (for Grassley) Amendment No. 3855, to combat money laundering and terrorist financing, to increase the penalties for smuggling goods into the United States.

Sessions (for Grassley) Amendment No. 3856, to establish a United States drug interdiction coordinator for Federal agencies.

Sessions/Ensign Amendment No. 3872, to amend the Immigration and Nationality Act to require fingerprints on United States passports and to require countries desiring to participate in the Visa Waiver Program to issue passports that conform to the biometric standards required for United States passports.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 9:45 a.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2845, Calendar No. 716, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Bill Frist, Tom Daschle, Susan Collins, Lamar Alexander, Orrin Hatch, Lindsey Graham, John Warner, Judd Gregg, Saxby Chambliss, John Cornyn, Kay Bailey Hutchison, George Allen, Gordon Smith, Jim Talent, Norm Coleman, Ben Nighthorse Campbell, Mitch McConnell, Joseph Lieberman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 2845, the National Intelligence Reform Act of 2004, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The yeas and nays resulted—yeas 85, nays 10, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—85

Alexander	Baucus	Bingaman
Allard	Bayh	Bond
Allen	Bennett	Boxer
Breaux	Graham (FL)	Murkowski
Brownback	Graham (SC)	Murray
Bunning	Grassley	Nelson (FL)
Campbell	Gregg	Nelson (NE)
Cantwell	Hagel	Nickles
Carper	Harkin	Pryor
Chafee	Hatch	Reed
Chambliss	Hollings	Reid
Clinton	Hutchison	Roberts
Coleman	Inhofe	Rockefeller
Collins	Jeffords	Santorum
Craig	Johnson	Sarbanes
Crapo	Kennedy	Schumer
Daschle	Kohl	Shelby
Dayton	Kyl	Smith
DeWine	Landrieu	Snowe
Dodd	Lautenberg	Specter
Dole	Leahy	Stabenow
Domenici	Lieberman	Sununu
Dorgan	Lincoln	Talent
Durbin	Lott	Thomas
Enzi	Lugar	Voinovich
Feingold	McCain	Warner
Feinstein	McConnell	Wyden
Fitzgerald	Mikulski	
Frist	Miller	

NAYS—10

Burns	Cornyn	Sessions
Byrd	Ensign	Stevens
Cochran	Inouye	
Conrad	Levin	

NOT VOTING—5

Akaka	Corzine	Kerry
Biden	Edwards	

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 10. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative the motion is agreed to.

Ms. COLLINS. Madam President, I ask unanimous consent that it be in order to consider sequentially the Feinstein amendment, No. 3718, and the Gregg amendment, No. 3934, both as modified with changes that are at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3718, AS MODIFIED

Mrs. FEINSTEIN. Madam President, my comments are related to amendment No. 3718, as modified, which the chairman said is at the desk. I will not have to ask for the amendment to be modified. This amendment has been previously debated. I have spoken on the floor twice about it. It was set aside at my request.

The amendment clarifies the relationship of the FBI to the new national intelligence director. It ensures that national intelligence programs include the FBI's intelligence activities. I had hoped that the amendment could be disposed of yesterday, but apparently that could not happen and, thus, the amendment is before us today.

I thank Senators LIEBERMAN, COLLINS, ROBERTS, and GREGG, all of whose staff worked hard to improve the original amendment. The result is, in essence, a compromise that accomplishes our fundamental goal, which is to ensure that the intelligence functions of the Federal Bureau of Investigation are both reorganized and, secondly, effective and coordinated in the intelligence community.

The original amendment has been modified to that effect. It is my understanding that the amendment, as modified, is acceptable to both sides.

Ms. COLLINS. Madam President, I congratulate the Senator from California for her amendment. She has worked very closely with Senator LIEBERMAN and me, as well as with the Judiciary Committee and Senator GREGG.

Senator FEINSTEIN's amendment is a good one. It strengthens the bill. It underscores her commitment to making the FBI as effective as possible in the war against terrorism. I thank the Senator for her leadership, and I urge adoption of her amendment.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, I also thank the Senator from California for her persistence, both on the substance of this amendment and in the vagaries and twists and turns of the legislative process.

This is an important amendment. In some sense, it strengthens, ratifies, and makes statutory some of the very constructive changes that have been occurring at the FBI, by establishing a directorate of intelligence within the FBI that is based on the existing Office of Intelligence there.

The amendment also modifies the definition of national intelligence under the bill, in order to make clear that national intelligence programs within the FBI will be included within the national intelligence program. So there will be no more of the division between foreign and domestic, and no more of the division between the FBI and CIA, which occurred so heartbreakingly and infuriatingly before September 11. We are all going to be together in the national intelligence program under the national intelligence director, protecting the safety of the American people.

This amendment increases substantially the probability that we can deter the terrorist enemy by knowing where they are before they strike us. I thank the Senator for her leadership, and I support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3718), as modified, was agreed to.

Ms. COLLINS. Madam President, it is my understanding that the Senator from New Hampshire, Mr. GREGG, is on his way to the floor to speak briefly on his amendment.

While we are awaiting his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3710

Mr. CHAMBLISS. Madam President, I call up for consideration amendment No. 3710.

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

Mr. REID. What was the request, Madam President?

The PRESIDING OFFICER. The Senator is seeking to call up amendment No. 3710. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS] proposes an amendment numbered 3710.

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

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

The amendment is as follows:

(Purpose: To provide for the establishment of a unified combatant command for military intelligence)

On page 153, between lines 2 and 3, insert the following:

SEC. 207. UNIFIED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

"§ 167b. Unified combatant command for military intelligence

''(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the 'military intelligence command').

''(2) The principle functions of the military intelligence command are—

''(A) to coordinate all military intelligence activities;

''(B) to develop new military intelligence collection capabilities; and

''(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

''(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

''(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

''(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

''(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

''(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

''(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

''(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

''(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

''(A) Developing strategy, doctrine, and tactics.

''(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

''(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

''(D) Training military and civilian personnel assigned to or under the command.

''(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

''(F) Validating requirements.

''(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

''(H) Ensuring the interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

''(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

''(J) Recommending to the Secretary of Defense individuals to head the components of the command.

''(3) The commander of the military intelligence command shall be responsible for—

''(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

''(B) responding to intelligence requirements levied by the National Intelligence Director.

''(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

''(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

''(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

''(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

''(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

''(A) development and acquisition of military intelligence collection systems; and

''(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

''(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

''(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

''(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

''(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

''(2) The elements of the Department of Defense referred to in this paragraph are as follows:

''(A) The Defense Intelligence Agency.

''(B) The National Security Agency.

''(C) The National Geospatial-Intelligence Agency.

''(D) The National Reconnaissance Office.

''(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

''(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

''(1) Intelligence collection.

''(2) Intelligence analysis.

''(3) Intelligence information management.

''(4) Intelligence workforce planning.

''(5) Such other activities as may be specified by the President or the Secretary of Defense.''.

''(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

''167b. Unified combatant command for military intelligence.''.

Mr. CHAMBLISS. Madam President, I call up this amendment with the intention of withdrawing it. We had discussions with the chairman of the committee, along with the ranking member. While we feel this is a significantly important amendment, we are still a ways from coming to an agreement relative to the substance of it.

Basically, in today's intelligence community, there are 15 agencies within the Federal Government that have some jurisdiction and some involvement. Eight of those 15 agencies are located within the Department of Defense. We have our three combat support agencies—the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office—all of which have been discussed very liberally within this debate. We also have the Defense Intelligence Agency, as well as every one of the four service branches with an intelligence division.

Under the current setup—and the setup that will be in place after the passage of the intelligence reform bill, as it is now on the floor—all eight of those agencies report to the Secretary of Defense and they will report in a dual capacity to the Secretary of Defense and the National Intelligence Director.

Senator NELSON, who has been a very strong cohort and cosponsor of this amendment, and I strongly believe that what we need to do to improve the effectiveness and the communication in the intelligence community relevant to the Department of Defense is to combine all eight of those intelligence agencies under one combatant commander, create a new combatant commander that is at the four-star level and require all eight of these agencies to report to that one four-star general so that the Secretary of Defense and the national intelligence director have one person to go to when it comes to the collection, analysis, and dissemination of intelligence from a Department of Defense perspective.

Having been involved in this for the last 4 years, both in my last 2 years on the House side and 2 years now on the Senate side, I know how complex the intelligence world is and how many overlaps there are between the civilian side and the Defense Department side and how absolutely necessary it is that we have an ongoing line of communication between the military and civilian departments and agencies that are involved in the collection, analysis, and dissemination of intelligence and the sharing of that information at different levels and across various agencies.

For the Secretary of Defense to have eight people report to him and for the new National Intelligence Director to have eight people report to him, when we could have one person reporting to both of those two on issues relating to military intelligence, seems almost commonsensical that we reduce those eight down to one if we are going to provide a more efficient, a more effective intelligence line of communication.

That is the substance of our amendment. While I understand there is some objection forthcoming to the inclusion of the amendment, Senator NELSON and I wanted to offer it, we want to debate it, and we want to make sure this entire body knows we are going to come back next year when we have a little different forum within which to operate to offer this amendment again as a stand-alone bill and see it to its conclusion.

I close by saying that there is some objection from the Department of Defense on amendment 3710. While they are not publicly objecting, if they were asked, they would say they would rather not have a unified combatant command for intelligence because they want to have the flexibility of doing it the way they want to do it.

Several years ago, we had a similar situation relative to the consolidation of special operations when this body took the lead and told the Department of Defense: We are going to create a new unified combatant command for special forces, or SOCOM; we are going to create a four-star commander and consolidate all special operations under SOCOM and that one combatant commander.

The Defense Department resisted that, but today they will tell you at the Pentagon that it is one of the best things we have ever done. It was this body that initiated it. Senator NELSON and I think the same thing should apply in the area of intelligence. While I will withdraw the amendment, we both wanted to stress that a unified combatant command for military intelligence will be equally important for informing the National Intelligence Director of military intelligence requirements as it will be for assigning military intelligence capabilities to assist in fulfilling the National Intelligence Director's intelligence responsibilities.

I yield to my colleague from Nebraska, Senator NELSON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I thank my colleague for the opportunity to join with him to support this bipartisan legislation which we will be working to get passed in January.

As my colleague said, the new command will be a functional rather than a regional command, just like the U.S. Strategic Command in my State of Nebraska, and the U.S. Special Operations Command in Florida, the U.S. Joint Forces Command in Virginia, and U.S. Transportation Command in Illinois.

As stated, the goal of this new command will be to organize the eight combat support intelligence elements within the Department of Defense under a single military commander. These elements will include bringing together what are often referred to as the alphabet agencies. Most people know them more by their initials than they do by the actual names. But it will bring together the DIA, or the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the Army, Navy, Air Force, and Marine intelligence offices. All total, these offices employ thousands with budgets in the billions.

Eighty percent of all intelligence gathered by the U.S. Government is used by our armed services, and the ability to rapidly disseminate this information, as well as share the information, often means the difference between success and failure in the field. This new combatant commander will streamline the flow of information from our combat support elements to the warfighter, an important part, an important role for this agency.

The responsibility of the military intelligence commander will include intelligence collection and analysis in response to requests from the national

intelligence director. As we know, this past week we all heard a great deal about whether it should be a NID, national intelligence director, or a NIC, whether it should be about directing or coordinating. This commander will act as the single entry point for the NID to assign military intelligence capabilities, and will strengthen the coordination of those efforts.

This will strengthen coordination between the NID and the Department of Defense because without one central contact inside DOD who can manage the military intelligence capabilities of the Department, it will be an extraordinary challenge for somebody outside DOD, such as the NID, to proficiently administer eight separate military intelligence assets.

This new command will prepare and submit to the Secretary of Defense and the NID recommendations and budget proposals for military intelligence forces and activities. Additionally, the commander will establish priorities for military intelligence that coincide with national priorities established by the NID and approved by the President. The commander will also ensure interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the NID.

The commander will answer to the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President, and will represent the Department of Defense in the intelligence community under the NID.

I realize some of my colleagues may be asking the question whether this new position will add yet another layer to military intelligence-gathering agencies, but consider the fact that no military coordinator currently exists. So I do not see this as another layer; I view it as a necessary position that DOD has been far too long without.

Perhaps if the commander for military intelligence already existed, then discovering how command was severed at Abu Ghraib might have been easier. The tragedy there likely would not have been prevented entirely, but there certainly would have been more direct lines of accountability with a combatant commander for military intelligence.

This is an opportunity for us to debate the issue at this time, but the opportunity to pass it after the first of the year will be one that I think we must, in fact, take up. It will improve coordination and will not undermine the direction of the national intelligence director, but it will, in fact, help harmonize in the sharing of intelligence throughout the entire military and intelligence community.

I thank my colleague from Georgia for the opportunity to participate, and I congratulate the chairman of the committee and the ranking member for doing an outstanding job in reforming our intelligence-gathering agencies' operations.

It is not an easy task. We think this could be a part of it, but rather than have any effect in slowing down the operation of what we are doing today, we think we can take this up at another time.

Mr. CHAMBLISS. I thank the Senator from Nebraska for his always keen insight into the problem that exists and why this amendment would help with the solution to that problem. I look forward to continuing to work with him when we get back in the next session of Congress.

I also thank the chairman for her effort to try to figure out some compromise relevant to this particular issue. Senator COLLINS and Senator LIEBERMAN have been very cooperative, and it is not for a lack of effort on their part that we are not able to come to some compromise on this issue, but we look forward to continuing the dialogue and working with them.

I yield the floor.

AMENDMENT NO. 3710 WITHDRAWN

I ask unanimous consent to withdraw the amendment.

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

The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from Georgia and the Senator from Nebraska for their contributions to this debate. They have raised an important issue. It is, as they have recognized, a difficult and controversial issue, and I am very grateful to both of them for being willing to raise the issue but not press forward with their amendment at this time. I look forward to continuing to work with both of them. Both of them are leaders in military and intelligence matters, and I very much respect their judgment and their knowledge.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join Senator COLLINS in thanking our colleagues from Georgia and Nebraska for a very thoughtful and substantial idea that is not going to be possible to act on in this bill, but I thank them for the question they have raised. I think they are heading in the right direction, and I look forward to working with them.

We have two choices. The four of us could work together on the Armed Services Committee or we could continue to work through the Governmental Affairs Committee, but in either case, as Senator COLLINS has said, Senator CHAMBLISS and Senator BEN NELSON are leaders in the Senate on matters of national security and just in the best tradition of our Government and our Congress, which is not always honored, moving in a totally bipartisan, nonpartisan way. I thank them for that and look forward to seeing this to fruition someday soon.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3934, AS MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent that we now turn to Gregg amendment No. 3934, as modified.

The PRESIDING OFFICER. The amendment is pending.

The amendment, as modified, is as follows:

AMENDMENT NO. 3934, AS MODIFIED

On page 121, line 13, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 17, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 19, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 123, beginning on line 8, strike '', in consultation with the Director of the Office of Management and Budget, modify the'' and insert ''establish a''.

On page 123, line 11, strike ''in order to organize the budget according to'' and insert ''to reflect''.

Ms. COLLINS. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3934), as modified, was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3933

Ms. CANTWELL. Madam President, I rise to thank the managers of this bill for their hard work and perseverance in trying to get the recommendations of the 9/11 Commission passed and their accommodation of many Members with various amendments. Obviously they have been working long before this time period, through the August recess and since we have come back, and now we are pushing towards the final stages.

I thank the managers of the bill for including a provision in the bill, a Cantwell-Sessions amendment dealing with the Visa Waiver Program and closing a loophole that I call the Ressam loophole. That is a loophole that allowed a terrorist to go from Algiers to France to Canada and then load up his car with explosives and head to the U.S.-Canadian border at the State of Washington with plans to set off those explosives, potentially, at LAX Airport or perhaps somewhere along the way of the west corridor.

What the amendment did was to basically say to those who are our partner countries that the United States wants to make sure that people coming into our country on visas meet certain biometric standards so we know who people are. If we actually knew Mr. Ressam's true identity when he left France to go to Canada, he would have been stopped at the Canadian border. He could have been stopped earlier in the process if we actually knew who this individual was.

So what this Cantwell-Sessions amendment did, and, again, I thank the managers for adding it, was to help us identify the types of technologies that we hope our partner visa waiver countries also adopt for their biometrics on visas allowing people into their country.

To put it simply, our borders will only be as strong as our partner countries' and as they adopt standards. The last thing we want to do in the United States is to have a process by which we are more sure of people we are giving visas to, only to have, then, individuals who are looking for ways to get access to the United States to go to Mexico or Canada or France or Germany and then find their way to easy entry into the United States by creating a new identity.

The estimates are that there are millions of passports that have been lost or stolen and that individuals easily create new identities. But if our partner countries in the Visa Waiver Program, such as Mexico, France, Germany, also create biometric on their visas for people coming into their countries, we will have a safer process of understanding and stopping terrorists at their point of origin as opposed to continuing to allow them to travel around the globe, creating new identities or possibly getting easy access to our neighboring countries and then easily sneaking across U.S. borders.

I thank the managers for their hard work and diligence on this issue and for working to accommodate so many Members on what are very challenging issues. We have done great work on making our borders more secure since 9/11. We have put resources there. We have tightened our programs. We have worked on the US VISIT implementation. But we need to continue to understand that our security will only be as good as the security of our partner nations, working in this battle to fight terrorism around the globe. I very much appreciate the managers being included in that.

If I could say, I am also pleased that the conference report on the JOBS bill is moving. It seems to be progressing. While we are working to finish up this 9/11 report and finish up the legislation that implements it, I am hopeful we will be successful in passing the FSC/ETI conference report before we leave for this recess that is scheduled for this Friday. That is very important legislation to help companies that want a level playing field on the trade front, helping large companies in my State or exporters such as Boeing and Microsoft—there are many more—to get a level playing field.

There is also tax fairness in this JOBS bill for Washingtonians and seven other States that have not been able to deduct their sales tax from the Federal income tax. I am glad to see that recision is in the bill. I hope we can move forward this week to give the fairness back to those States that have been unjustly penalized on that for about the last 18 years. While this 9/11 legislation is moving through, I hope we are also successful in moving the JOBS bill through and that we can continue to work diligently on that process.

As I see no other Members who are ready to offer amendments, I will say one more word of thanks to the incredibly hard work that is going on in the State of Washington by the U.S. Geological Survey. Many people realize that there is an imminent eruption of Mount St. Helens about to take place. We have seen the ash and steam of several smaller events occur in the last several days. But because of the investment this country has made in the Department Interior and the U.S. Geological Survey, we have so much more information at hand today.

In 1980, we heard the final cry of a U.S. Geological Survey worker who said, ''Vancouver, Vancouver, this is it.'' Then he ended up losing his life to the explosion, as did 57 other residents of the Northwest. The impact of that volcanic explosion was so significant it impacted various cities such as Yakima and Vancouver.

Today, because seismologists, geologists, meteorologists, and vulcanologists also have been working together, we have much more data and we have been able to advise the larger community on the hazards we are facing with another eruption of Mount St. Helens. I thank the men and women who are doing terrific work in informing all of us so we can make great plans, so that aviation, transportation, and the health and security of the emergency management system can do their jobs, because we have good science and information.

I thank the managers of this bill for their hard work and perseverance on an issue that many times during this debate didn't seem to be very decisive, as Members have many different ideas about how we approach terrorism and what our country needs to do to harden our targets and to improve our intelligence operation. But I want to thank the diligence of these Members because they are doing the work to understand the details of this legislation. They have been doing that work for the summer while we were out on recess, and what they did is work to understand these amendments in detail. I appreciate their adoption of the Cantwell-Sessions amendment, which I do believe will help us not only make U.S. borders more secure but make our partner countries' borders more secure and stop terrorism at the point of origin. I thank the managers for their help and support for the passage of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, let me thank the Senator from Washington for her kind words about Senator COLLINS and me, but really much more than that, for having an excellent idea here which will measurably increase the security of the American people.

Our borders are more secure than they were on September 10, 2001, but they are not secure enough. We don't want to discourage people from coming to the United States for business or pleasure, but to protect ourselves we have to ask not only of ourselves but of other countries that they begin to use the technology available to identify those who are coming to our country, not for business or pleasure but to do us harm. This amendment will move us forward on that.

Senator CANTWELL has been—I think I heard her use the word ''perseverance'' with regard to the chairman and myself. She has been the model of perseverance because she really believes in this. In the twists and turns of the legislative process where individuals can register objections, the Senator from Washington was here late last night and early this morning. The result is that ultimately all the objections faded away because this is a great idea. It was adopted.

I thank her very much and look forward to monitoring the implementation of this as we go forward.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MINNESOTA TWINS

Mr. DASCHLE. Mr. President, I will have more remarks on another matter, but I wanted to start this morning by acknowledging yet another remarkable year by the Minnesota Twins.

Tonight, the Twins will be playing in the Major League Baseball playoffs, and this marks the third year in a row that the Twins have made the playoffs.

We follow the Twins in South Dakota because we have no team ourselves in the eastern part of the State. So the Twins have become very special to many South Dakotans as well.

I might remind my colleagues that this is the same small market Minnesota Twins team that was threatened not long ago with ''contraction''—a euphemism cooked up by big city owners for shutting down a team that generations of South Dakotans have come to call their own.

Tonight the Twins will face off against the New York Yankees, whose huge payroll ensures that it is never a surprise when they make it to the playoffs.

The Twins will pitch their ace, YOhan Santana—who also happens to be a leading contender for the Cy Young award. His dominance is in many ways a symbol of what has made the Twins so solid.

After being cast off by another team, he was brought up in the Twins system,

which rewards dedication and loyalty. And like so many of the Twins stars, he is a hard worker who leaves everything on the field.

It is no mistake that the Twins' strengths—dedication, loyalty and hard work—are the same traits that have made the Midwest strong.

So let me add my voice to those of thousands of Twins fans across South Dakota and Minnesota in saying to Grady and his boys, good luck. You have made us proud, and we know you will continue to do so in the days ahead.

HIGHER EDUCATION

Mr. DASCHLE. Mr. President, Congress, unfortunately, is going to miss many important deadlines this year and many critical opportunities to help relieve the increasing economic squeeze on America's families. This morning, I would like to talk about one of those missed opportunities, which is helping families pay for college.

We knew for 6 years that the Federal Higher Education Act would expire on September 30. Despite that, the majority failed to set aside time to reauthorize the law.

That leaves the Senate in the unfortunate position of having to simply extend the current law—with no improvements, and no additional help for the millions of middle-class families in South Dakota and across America who are struggling to put their sons and daughters through college.

Kim and Todd Dougherty are two of those parents. They live in Chamberlain, SD. They have three children: two sons, ages 20 and 22, and a daughter who is a junior in high school. Todd is a salesman. Kim teaches second graders at a tribal school. Both of her parents were teachers, too. This is a family that believes in education.

The Dougherty's older son, Scott, started college at a small college in Minnesota 4 years ago but left after two semesters because of frustration with a learning disability and came home to consider other schools and options.

Shortly after he returned home, Scott tore the ACL ligament in his knee. Unfortunately, he had let his health insurance lapse because he couldn't pay his tuition and insurance premiums at the same time. His knee surgery cost him $12,000. After his surgery, he had to start paying back his student loans.

Today, Scott works as a cook in a restaurant. He pays $409 each month towards his medical and student loan debts, and another $200 a month for health insurance. That leaves him $75 a month for everything else. He can't go back to college until he pays off a sizable portion of his debts, and he worries that he can't get a better-paying job because he has so much debt.

All across America, there are tens of thousands of families who are in situations similar to the Doughertys'—or soon could be.

They are hard-working, middle-class families in which parents have saved for years to pay for their children's college educations. There is no margin for error in their family budgets. If one thing goes wrong—if a parent loses a job unexpectedly, or someone in the family has a serious illness or accident—the debts start to pile up and suddenly, college starts to feel unattainable. Middle-class parents watch their dreams for their children's future start to slip away.

We need to do right by these families, and that means keeping the doors of college open to all Americans, no matter what their family's economic circumstances.

Unfortunately, we are moving in the opposite direction. This year, nearly a half-million Americans will be turned away from colleges strictly for financial reasons. They can do the work, they just can't afford the tuition.

Since President Bush took office, the average tuition at a 4-year public college has increased 28 percent; when this year's increases are released in about a month, that number is likely to climb to well over 30 percent.

College costs are rising faster than inflation—faster than average family incomes—and much faster than increases in student financial aid.

Every 2 years, a non-partisan group called the National Center for Public Policy and Higher Education releases State-by-State report cards on higher education. The report cards grade each State on six different criteria. One is affordability: How large a share of their income do families have to pay for college at a public 4-year college or university?

Their latest report, released in early September, ought to concern us all. Thirty-seven States—including South Dakota—got an ''F'' for affordability. Thirty-seven of 50 States. Ten additional States received ''Ds,'' two States got ''Cs,'' and one State received a ''B.''

No State earned an ''A.'' Even in the best-performing States, we are losing ground; college is less affordable today than it was a decade ago. This is a serious national problem.

What is the response from the administration and congressional Republicans? Silence. They failed to bring the Higher Education Act up for reauthorization.

Their oversized tax cuts have eaten up Federal resources that we could otherwise invest in higher education, and in basic research and investment.

The President's proposed budget for next year provides no new money for the Perkins low-interest loan program, no new money for the College Work Study program, and the Supplemental Educational Opportunity Grants, and no money at all for the LEAP program—all of which help lower-income students pay for college.

Despite the President's campaign promise in 2000 to increase the maximum Pell grant, his proposed budget for next year freezes Pell grants for the third year in a row.

Even worse, the administration is once again proposing changes to the eligibility rules that would reduce Pell grants by 270 million overall and cause 84,000 families to lose their Pell grants altogether.

I joined a bipartisan coalition of Senators to protect students and families from these unwise changes last year—and we are determined to prevent these cuts again this year. Making it even harder for the sons and daughters of America's working families to afford college is the wrong direction for America.

The repeated attempts to cut Pell grants are part of a pattern by this administration and the Republican leadership in this Congress to deny educational opportunities.

Earlier this year, Democrats made a simple proposal: Let's help those Americans whose jobs are being shipped to China or India attend a community college, where they can learn new skills to get new jobs. The administration said, flatly, ''no'' and shut the doors of college in the faces of these Americans.

But we want to do right by America.

We support increasing the maximum Pell grant from $4,050 to $5,100—the amount candidate Bush called for in 2000 but has never supported as President.

We support doubling the HOPE Scholarship tax credit from $1,500 per student to 3,000 per student, extending the deductibility of tuition expenses, and making the education tax credits refundable for the poorest families. We support Senator KERRY'S proposed $4,000-a-year ''College Opportunity Tax Credit'' which would be refundable for low-income families.

Instead of the cuts the President proposes for tribal colleges and the minuscule increases he recommends for historically black colleges and universities, and Hispanic serving institutions, we support significantly increasing support for these minority-serving institutions because we believe diversity strengthens our democracy and our economy.

We believe in expanding the use of loan-forgiveness programs to reduce student debt while addressing crucial needs, such as placing doctors and teachers in rural communities and inner cities.

We believe our brave National Guard and Reserve members in Iraq and Afghanistan who are facing the same bullets as full-time military members deserve the same education benefits. The National Guard Bill of Rights provides that educational equity. We should pass an entire National Guard Bill of Rights this year.

Over the course of a career, a person with a 2-year college degree will earn an average of $400,000 more than a high school graduate. Someone with a 4-year degree will earn $1 million more.

It is not just individuals who benefit when we open the doors of college to

the sons and daughters of working families. America's economic future depends on our ability to develop the potential of all of our people.

A while back I read a story in the New York Times. The headline read, ''U.S. Is Losing Its Dominance in the Sciences.''

The story said:

> The United States has started to lose its worldwide dominance in critical areas of science and innovation, according to federal and private experts who point to strong evidence like prizes awarded to Americans and the number of papers in major professional journals.

Unless we reverse this decline and regain America's scientific and technological knowledge, our children will grow up in a less productive, less prosperous America.

Keeping college affordable is a very personal issue for me. I was the first person in my family to go to college. I worked to pay for part of my tuition, and I also had help from my parents. My mother went back to work when I was in high school to help pay for my college education. Even with all of us pitching in, it was still not quite enough. As so many others today, I joined the ROTC program and I spent 3 years in the Air Force after I graduated to pay back my loans.

I know what a difference it makes when America invests in the children of regular working people. I also know the pride a parent feels watching his child receive a college degree. I have seen all three of my own children graduate from college.

We believe every American deserves those same opportunities. We will continue to fight for them as we resolve these matters in the Senate and elsewhere throughout our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I commend and thank the chairman of the committee, the Senator from Maine, and the ranking member, the Senator from Connecticut, because they have already approved and passed last evening an amendment I had offered which will be very helpful as we try to meet this threat of terrorism.

Indeed, we have a watch list. Recent news stories say the watch list is not necessarily being implemented as it should by the Department of Homeland Security. Nevertheless, we try. That watch list has been specifically targeted to commercial aviation.

The watch list needs to be expanded because there is plenty of opportunity of mischief, as I have said in this Chamber many times, with regard to the securing of our seawater ports and, specifically, in addition to cargo, the cruise ship industry and the thousands of people who vacation on a cruise ship.

This is particularly important to my State of Florida because we have the three largest cruise ports in the world: the Port of Miami, Port Canavaral, and Port Everglades, all on the east coast of Florida and all of which have these gigantic cruise ships that sail to the great delight of the passengers. These are cruises that are sometimes only a day but usually they are 4 to 7 days in duration. It is certainly a place for a wonderful vacation for people to cruise to the Bahamas in the midst of this floating hotel, a cruise ship.

Because there are several thousand people located in one place and they are treated as passengers on an airline, checking their baggage and their persons for all kinds of weapons and other destructive materials, is it not logical that the watch list for avowed terrorists, given to commercial airline companies and to TSA, should not be administered by TSA as they check the baggage of people on cruise ships? The answer to that is common sense. Yes, it should be.

Because of the very professional manner in which the Chair and her ranking member of this committee have handled this legislation, they understood that and they have agreed to the amendment. They were very kind to pass the amendment last night. I cannot imagine this would become an issue in the conference committee.

I give credit where credit is due, to the cruise industry. The cruise industry recognizes the possibility for mischief. It makes sense. I thank the cruise industry for stepping up.

I am compelled to speak about two more matters not directly related to this but which are very timely in the consideration of the Senate.

Did the Senator from Maine have a question?

Ms. COLLINS. Would the Senator be willing to yield for two quick unanimous consent requests?

Mr. NELSON of Florida. It is the absolute least I can do for the gracious Senator from Maine who recognized the common sense of this amendment. She, along with Senator LIEBERMAN, have made it possible to be accepted.

I certainly yield.

Ms. COLLINS. I thank the Senator for his cooperation and his amendment.

Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 today to accommodate the weekly party luncheons and that the time in recess be counted against the postcloture period.

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

Ms. COLLINS. I thank the Senator from Florida.

HURRICANE CLEANUP

Mr. NELSON of Florida. Mr. President, I thank the leaders for the tremendous job they have done in handling this legislation. Anyone who can pass legislation in such a contentious atmosphere has to be Merlin, the Magician. My hat is off to the Senator from Maine and the Senator from Connecticut.

Two other very timely topics, timely in the sense of an emergency, after having been hit by four hurricanes in Florida, with the tremendous debris that is left over, part of the moneys we have passed here for FEMA is for debris cleanup of which FEMA then reimburses the local governments that go out and, either with their own crews or by contracting out, arrange for the removal of debris. This is not only clearly getting one's life back in order but it is also a health question, a safety question.

I was going through some of this debris on Sunday at a mobile home park for senior citizens called Palm Bay Estates in my home county of Broward. All of the aluminum, particularly on carports, was whipped up and twisted by the wind and now is in piles, with razor-sharp edges. So it is a safety as well as a health question. The debris accumulates in canals, in waters, in estuaries, particularly if it is of an organic nature. Then it starts to become a health hazard as well. We simply need to have it picked up.

But that is not the question. FEMA is taking the position that they are not going to reimburse the local government unless it is picked up from a public right-of-way. Yet FEMA has the authority, if it involves the health and safety of the people, to allow the repayment for the pickup from private rights-of-way.

Why is that important in Florida? Because we have huge senior citizen complexes with thousands of senior citizens. But they are not public rights-of-way, they are private rights-of-way. That debris has to be picked up for health and safety reasons. Yet who is going to pay for it? FEMA has the authority to do that. Since the local governments are not going to be able to bear the cost of all that pickup, especially after four hurricanes, the only other alternative is to assess the residents of that area for the pickup.

Senior citizens on fixed income cannot afford that. FEMA has it under its authority, but FEMA is not doing it. We want to give them a little encouragement.

I have spoken to the chairman of the Homeland Security Appropriations Subcommittee. That bill is now in conference with the House. I have suggested some language that will give FEMA some help to recognize that this is in the public interest, particularly in the State of Florida, after four hurricanes, and that they should be so directed. I am hopeful the conferees will accept that language.

VOTER REGISTRATION IN FLORIDA

Mr. NELSON of Florida. Mr. President, the last item I want to talk about is of grave concern. Yesterday was the final day for voter registration in the State of Florida. As one can imagine, there were huge lines at all of the registration points in Florida's 67 counties. But there is a subtle administrative order that could be directing extreme mischief in denying people the right to vote; for a directive, according to the supervisor of elections in one of our counties—specifically in Volusia—has come out from the secretary of

State's office, division of elections, in the capital city of Tallahassee, that says if any piece of information on this Florida voter registration form is missing, this voter registration is to be treated as null and void.

Why am I concerned about that? Because they specifically say in the directive that if the box on line 2 that states, ''Are you a U.S. citizen?'' is not checked yes, they are to discard it, when in fact the oath that is signed specifically states, ''I do solemnly swear or affirm that I am a U.S. citizen. I am a legal resident of Florida.'' And the voter registration applicant signs that form.

This is a clear intent—hopefully, not an intent—it is a clear manifestation of disenfranchising people, of not allowing them the right to vote, if on a technicality, because on line 2 they have not checked the box of being a U.S. citizen, but on line 17 have sworn under oath that they are a U.S. citizen, they are saying that they are going to discount the voter's registration application.

I hope we don't have to go to court again. I hope we don't have to do what CNN did, go to court to strike down a law that said they were going to strike 48,000 convicted felons but would not release that to the public so that the public could see if those names were accurate. And lo and behold, when the Miami Herald got hold of the list, they found over 2,000 who were legitimate registered voters and not convicted felons.

Why do we have to keep going back to the courts to enforce this when what is at stake is the right of people to vote, which is absolutely a part of the constitutional foundation of this country?

The people should have the confidence and the knowledge that if they are eligible, they will be able to register and then, if registered to vote, that they will have the right to vote and to have that vote counted as they intended.

We are only about 4 weeks away from an election. I don't want to see a repeat in Florida of what happened 4 years ago when there was so much dissension and uncertainty. The whole electoral process has to work. It is important that it works for the sake of our democracy. A good place for us to start is for the secretary of State's office, the division of elections of the State of Florida, to stop issuing such edicts and directives to the election supervisors in Florida's 67 counties that would cause a voter trying to register to be thrown out on a silly omission, which is covered by their solemn oath.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3739 AND 3750, WITHDRAWN

Ms. COLLINS. Mr. President, I ask unanimous consent that amendments Nos. 3739 and 3750 be withdrawn. These are amendments that had been offered by Senator ROBERTS previously. He has asked that I withdraw them on his behalf.

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

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

POINTS OF ORDER, EN BLOC

Ms. COLLINS. Mr. President, I ask unanimous consent that it now be in order to raise points of order, en bloc against the following amendments in that they are not germane under the provisions of rule XXII. They are the following amendments: 3887, 3888, 3889, 3890, 3891, 3892, 3893, 3894, 3808, 3849, 3782, 3905, 3747, 3881, 3724, 3928, 3873, 3871, 3870, 3803, 3930, 3931, 3874, 3850, 3851, 3855, 3856, 3872, 3926, and 3819.

The PRESIDING OFFICER. Is there objection to raising the points of order?

Without objection, it is so ordered.

Ms. COLLINS. I announce that this will allow us to officially consider the remaining germane amendments. The nongermane amendments, as determined last week, will fall under this order. We will continue to work through the pending amendments that remain at the desk as we move toward completing this bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I have no objection. I want to ask Senator COLLINS, through you, my staff thought the Senator from Maine may have inadvertently read 3908 as 3808. Just to clarify, it is 3908.

Ms. COLLINS. Mr. President, I would not be surprised.

Mr. LIEBERMAN. Their ears are much better than mine.

Ms. COLLINS. I ask unanimous consent that the list be corrected to indicate the correct number is 3908.

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

The Chair sustains the points of order, en bloc. The amendments fall.

Ms. COLLINS. Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I be able to speak for up to 15 minutes as in morning business.

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

IRAQ

Mr. LAUTENBERG. Mr. President, I want to discuss the situation in Iraq.

Every day we see the terrible news about innocent Iraqis being killed, about the terrible tension in the country, about our young people being attacked and killed and, frankly, the mess we are witnessing, which is painful to see.

It came home today in a stark recitation, in a statement by Paul Bremer.

Paul Bremer was sent to Iraq to be in charge of the transition as we tried to go from the culmination of what appeared to be the end of the violence until we got to a government that was going to be run by Iraqis on an interim basis and the vote coming up in January. But what we heard from Mr. Bremer was painful to hear, and it has to be particularly painful to President Bush and his administration. What he said was there were not enough troops to do their job. We believed that from the beginning. General Shinseki said it, and he was overruled by the Pentagon and by the Defense Secretary. He was fired for saying: We need more troops to do the job, Mr. President.

People across the country understand that we need more people. Over 300,000 I believe was the number he used. He now says that and the failure to immediately stop the looting, stop the violence, and stop the response from those who would commit violence on the country were part of the reasons we are in this terrible situation we are in.

Last week, we finally had a chance to hear what President Bush's plans for Iraq were. And this is the image of what we got. It is blank. It says nothing. There is no plan.

Last Thursday, we heard repetition from President Bush, the same tired slogans we have heard for almost 2 years now, no plan was articulated, no new ideas, nothing, just the same as we see on this placard. President Bush basically said that we are going to get more of the same in Iraq. What a terrible condition that is. Iraq has become an absolute crisis, and there is no plan to fix the situation.

When the President asked Senator JOHN KERRY what his plan is, it adds insult to injury. He has a plan. He talked about his plan. But the President has offered nothing on his side and challenges JOHN KERRY to have a plan, and JOHN KERRY presents a plan and the President doesn't show any. The President is showing a stubbornness. He calls it ''staying the course.'' It is a stubbornness that is costing American lives, the lives of our young people, the lives of our soldiers, and the lives of American workers in Iraq.

We need a dramatic change in direction. Everything that was assumed to be in order was wrong. They were

wrong about the weapons of mass destruction, and they were wrong about how our troops would be greeted on the streets of Iraq. Certainly, as I said earlier, they were wrong about how many troops we needed to secure the country. They were wrong about the reaction of the Shiites. They were wrong about how long the conflict would last and the toll it would take on Americans lives.

The President and his team have just about done it wrong. The President's worst adviser in terms of being wrong on almost everything is Vice President CHENEY.

At the outset of the war in March of 2003, Vice President CHENEY declared:

> We will, in fact, be greeted as liberators.

In fact, be greeted as liberators? In fact? I don't think so.

But maybe the reason Vice President CHENEY kept getting things wrong on the war is he has not ever seen it. He has never worn a uniform, and he was never on a battlefield. In fact, when duty called, Vice President CHENEY turned his back on the call while many answered the call to serve. DICK CHENEY took five student deferments in order to avoid service in Vietnam.

He wasn't, however, the only member of the Bush team who kept getting it wrong. I want to review some of the quotes of President Bush's top advisers. One is by Secretary Donald Rumsfeld. He said on February 7, 2003:

> It is unknowable how long that conflict will last. It could last 6 days, 6 weeks, I doubt 6 months.

It is one thing to be wrong one time but you try to correct the situation.

Here is what Deputy Defense Secretary Paul Wolfowitz said:

> We know that there are ties between the Iraqi regime and a whole range of terrorist groups, including al-Qaida, and we know that Saddam has these weapons.

Again, what kind of a statement is that? It doesn't tell us anything except that we are wrong.

When we look at other statements that have been made, on March 30, 2003, Defense Secretary Rumsfeld said:

> The area in the south and the west and the north that coalition forces control is substantial. It happens not to be the area where weapons of mass destruction were dispersed. We know where they were. They're in the area around Tikrit, and Baghdad and east, west, south and north somewhat.

Each one of these statements indicates a lack of knowledge and a lack of understanding as to what was going to happen when this war was concluded. It has not been concluded.

When we look at the cost of the war, as of today, 1,058 our troops have died, some 7,000 injured, many with terrible injuries that will handicap them all of their lives.

We need to change course. We don't need more of the same. Senator KERRY, our colleague, is offering a new direction, and that is what we need. We need to stop bearing the entire burden of Iraq. We are taking 90 percent of the casualties, and the American taxpayers have shelled out almost $200 billion for Iraq. It is not right. It is not fair to the American taxpayers. It is certainly not fair to the families whose young sons and daughters are in service over there. Senator KERRY prepared a plan for a new direction in Iraq, a direction that will bring other countries to the table.

President Bush makes reference to Poland helping us in Iraq. He was almost obsessed with Poland during the debate.

What are the facts? Poland has 2,500 troops in Iraq, and they announced just this week they are getting out. They will have all of their troops pulled out sometime next year. Thailand wants to take its troops out—I think they have some 400 people there.

Again, under the administration's war plan, we are left with even more of the burden, and we are left with almost all of the costs both in terms of our soldiers' lives and American taxpayer dollars. All that has been accomplished in the last 2 years is we have alienated critical allies, and we are paying the price for that.

A big part of the problem is that the President refuses to accept reality.

Last week in a television interview President Bush was asked whether he regrets the moment on the aircraft carrier on May 21st in 2003, the infamous ''Mission accomplished'' speech. Incredibly, President Bush said he would do it all over again. In fact, in response to that question, would he have done it, he said he would ''absolutely'' do it again. He went on to say, ''You bet I'd do it again.''

It is incredible. He made that speech approximately a year and a half ago, saying, ''Mission accomplished.'' That meant it was over, that we would not have to worry about things.

Instead, we have lost over 800 people, four or five times the number killed during what was considered the active part of the war. We are moving to the delusional. The President does not regret telling our Nation's military families ''Mission accomplished''? He does not regret giving families false hope that major combat operations had ended?

We are now facing the biggest fallout of reservists ever in the State of New Jersey. There are pictures in the paper of men and women, saying they are scared; they are worried. Their families are frightened. Their kids are scared. Their spouses are scared. They know darn well it is dangerous over there.

Does the President regret taunting the terrorists and insurgents when he said ''Bring 'em on''? I'm sure the men and women on the ground in Iraq wish he had never said those words.

When I was wearing a uniform a long time ago, during World War II in Europe, I never wanted to see the enemy. I never wanted to see anyone who was hostile.

It was the wrong thing to say. I hope one day we will be able to face up to the truth that these were terrible statements.

More recently, President Bush told the world that the war on terror could not be won, but a couple days later he said, no, no, we will win. When the President was asked about a CIA report and the material he was looking at on intelligence, he said he dismisses the CIA report as just guessing when they told him the situation in Iraq was bad and could get much worse. Just guessing? The arm of our intelligence corps that is supposed to have the latest and the fullest data, and they are just guessing?

We need someone to take the bad news seriously, a President who will react to it and fix the situation. So far, President Bush simply ignored the bad news. I guess he hopes it goes away.

Unfortunately, he is inflexible on one simple point. He would repeat every one of the mistakes he has made over the last few years. The plan to go to war without a real alliance in place, he would do again. The decision to ignore the advice from General Shinseki that 300,000 troops would be needed, he would ignore the general's advice again. The argument that Saddam had weapons of mass destruction to reconstitute a nuclear programs, links to al-Qaida, he would make all of those arguments again.

All of this while ignoring, for all practical purposes, North Korea, Iran, countries that are actually developing nuclear weapons, while taking some of the attention away from the pursuit of Osama bin Laden who killed 3,000 Americans.

Not only does the President like to stick with bad ideas but there are flip-flops when someone else suggested good ideas, often resisting and then supporting. One flip was the Department of Homeland support. President Bush strongly opposed creating it in March 2002. His spokesman said a Homeland Security Department ''doesn't solve anything.'' Then flopping 3 months later, the President said he did want a Homeland Security Department.

President George Bush opposed creation of the 9/11 Commission. In April of 2002, President Bush said he was against the creation of the 9/11 Commission. He flopped after that as a result of increased political pressure. The President said he does support creating the 9/11 Commission in September of the same year. In April, no; In September, yes. It goes on and on.

Then the President, in response to an inquiry about Osama bin Laden, which in September of 2001 President Bush said he wanted Osama bin Laden dead or alive. In March of 2002, President Bush said, I don't know where he is; I truly am not that concerned about him.

Not concerned? He murdered 3,000 Americans, 700 of my constituents in New Jersey. A terrible comment.

What we have seen shows we are on a very bad track right now. In fairness to the American people, families, those who are serving, we ought to come forward with a statement about what we

intend to do. How much longer will we have to have people in harm's way? How are we going to get the troops that it is suggested are needed—30,000 or 40,000? Where will they come from? Is there an intention to initiate a draft? I don't know where we are going to get the soldiers and other service people to fill these obligations.

I know one thing. Every day we read about another American serviceperson being killed or American civilians being captured or beheaded, it tells everyone in the country we are on the wrong path and we have to make a change.

I hope President Bush, even in this interim period, can see the necessity to come forward to the American people and say, look, we made some errors; we are going to correct them. We are going to get more people in there, but we are going to end this conflict by that time so we can start to bring our people home. There is no encouragement out there to believe that.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m, with time to run against cloture.

Thereupon, the Senate, at 12:28, recessed until 2:16 p.m., and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

The PRESIDING OFFICER. In my capacity as a Senator from the State of New Hampshire, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Ms. MIKULSKI. Mr. President, I want to take this opportunity as the Senate resumes this afternoon's debate to rise in very strong support of the National Intelligence Reform Act of 2004.

I am proud to join with Senator COLLINS and Senator JOE LIEBERMAN as a cosponsor of this bill. It is an excellent bill, and I want to support my two colleagues, Senators COLLINS and LIEBERMAN, for working so hard and to go at it in a way that is not only bipartisan but nonpartisan following the recommendations of the 9/11 Commission.

I am excited about this bill because I think it reforms our intelligence to be able to make sure that we prevent any more 9/11s affecting the United States; that we reform the intelligence so that we never go to war again on dubious information; that we make the highest and best use of the talent in our intelligence agencies, and that they have the framework to be able to protect the Nation, as well as be able to speak truth to power.

Mr. President, I am no stranger to reform. I am on the Intelligence Committee. I came on the committee before 9/11 to be an advocate for reform, particularly in the area of signals intelligence. As I worked on the committee and served on the joint inquiry about what occurred on 9/11, I became deeply committed to other issues related to reform: to have a national intelligence director, to create an inspector general, to mandate alternative or red team analysis, to always make sure that we policymakers have the best information, and that our troops and our homeland security officials get the best intelligence they need to be able to protect the Nation.

Following the 9/11 Commission report, but also with the wonderful work of Senators COLLINS and LIEBERMAN, we now have intelligence legislation that will give us a single empowered leader for our intelligence community, a strong inspector general, and a definite alternative analysis to make sure that all views are heard.

This reform is broad, deep, and also authentic. I think that is what the Nation wants of us.

Mr. President, 3,000 people died on September 11. They died at the World Trade Center, they died at the Pentagon, and they died on a field in Pennsylvania. At least 60 Marylanders died. We remember that they came from all walks of life. We must remember those we lost that day. The way we honor their memory is to take actions to do everything we can to prevent it from ever happening again. That is what the families have asked us to do. That is what the Nation has asked us to do. I am so pleased that we will act on this legislation before we recess.

We need to do this, and we need to do this now. In joining the Intelligence Committee, and also after those terrible acts, like many others, I asked what could we have done to prevent the September 11 attacks on our country? Also, why did we think that Saddam Hussein had weapons of mass destruction? What kind of information does the President need before he sends troops into harm's way? What kinds of information do we need—we, the Members of Congress—to be able to provide the right response to a President's request? We reviewed a lot of this information, and now we know we have the kind of reform in this legislation that will help us.

The 9/11 Commission built on the 9/11 joint inquiry of the House and Senate Intelligence Committees. We did that in a classified way. Then, the 9/11 Commission was organized, and I am happy to say I voted for it. The Commission could bring into the sunshine what many of us knew privately because it was classified. We knew about missed opportunities, insufficient or unreliable information, the failure to share information, the shortcomings of watch lists.

The legislation that we have before us will move the priorities forward for intelligence reform. First of all, it gives the intelligence community one leader with authority, responsibility, and financial control. In Washington, if you cannot control people or you cannot control budgets, you cannot control the agency.

Second, it provides for diversity of opinion in the analysis. It requires independent analysis. It also provides a framework for red teaming or a devil's advocate so that, again, the policymakers get the best information.

It also strengthens information sharing. It provides the support to speak truth to power. And it also provides a unity of effort in the global war on terrorism. All of this is done with a delicate balance of protecting privacy and civil liberties.

I salute my colleagues. While they were doing their homework this summer with the 9/11 report, I was doing mine—built on the experience that I had both as a member of the Intelligence Committee and the joint inquiry to investigate what went wrong on 9/11. I continued my homework over the summer. I read the riveting report of the 9/11 Commission. I attended hearings in the Intelligence Committee and Governmental Affairs. I consulted with officials of the FBI and others in homeland security in my State. I met with the Director of the National Security Agency. Having done that, I now conclude that this is the best legislation.

We are at a turning point. This is a new century. It poses new threats to the Nation. Therefore, it requires a new framework to serve the Nation. That is what I believe this legislation will do. So I say to my colleagues that one of the best actions we can take now, in order to serve the Nation, is stand up for our troops, protect the homeland, and pass the Collins-Lieberman legislation, which I truly believe brings about the reform of the national intelligence community.

I also salute the work of Senator HARRY REID and Senator MITCH MCCONNELL, who were working on how we need to reform ourselves in Congress to be able to provide the best oversight of the intelligence community so we can have the best intelligence, yet the highest value for our dollar, and at the same time protect the Nation, finding the balance to protect our civil liberties. I believe the task force report saying the Senate needs to reform itself internally will come after this legislation. I think we have done a great job working on a bipartisan basis.

I remember that fateful evening of 9/11 and that day when we gathered on the Capitol steps. America had lived through a lot. We didn't know what was yet to come. But joining with our

House colleagues, we in the Senate, with our leadership, joined hands and sang ''God Bless America.'' We were not a Democratic Party. We were not a Republican Party. We were the red, white, and blue party, and that is what we need to be here today. We need to join hands, pass the reforms necessary to protect the Nation, and to truly ask God to bless the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my dear friend and colleague from Maryland, Senator MIKULSKI, for that very thoughtful and strong statement on behalf of the bill. It means a lot to me and I know Senator COLLINS.

Senator MIKULSKI has focused on these national security intelligence issues. She happens to have a lot of people who work in this field for us in the State of Maryland. Senator COLLINS and I were very grateful and proud when Senator MIKULSKI joined us as an original cosponsor of this legislation. I appreciate all that she has contributed to our efforts. Her statement is very timely and gratefully appreciated. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I echo the words of my colleague from Connecticut. Senator MIKULSKI has been so helpful throughout this debate and in the development of this bill. In fact, when the Governmental Affairs Committee was first assigned the responsibility for evaluating the 9/11 Commission recommendations and producing this bill, it was the Senator from Maryland who was the first to call me and to offer to help, to share her knowledge from her years on the Intelligence Committee and on the Appropriations Committee. I really appreciated that gesture.

Since that time, she also participated in one of the Governmental Affairs Committee hearings that we held. Her State lost so many citizens on that awful day, and she has been relentless in her determination to make sure their memory is never forgotten. I very much appreciate all of her contributions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for a few minutes on an unrelated matter, pertaining to a bill the House of Representatives just passed.

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

HOLD ON S. 878

Mrs. FEINSTEIN. Mr. President, I rise to oppose S. 878, or at least the version the House of Representatives just passed today. Essentially, what the House did was to poison a worthy bill, a bill that was meant to alleviate the crisis of an overwhelming workload under which the Federal judiciary is struggling. The House did so by adding language to split the Ninth Circuit into three circuits. In doing so, the House has essentially taken the new judges as hostages to a starkly partisan and controversial ploy.

I will not go along with such bullying tactics, and I am placing a hold on that bill today. It is with great regret, and with greater frustration, that I place this hold.

I will take a few minutes to explain why we so desperately need the new Federal judges S. 878 would provide, and then I want to make clear why I am so opposed to the language the House of Representatives has added to split the Ninth Circuit.

According to the Administrative Office of the Courts, the average caseload for every Federal district judge in the country is now 523 cases per judge. In 1999, the average was 480 cases. So it has increased 9 percent in 4 years. But that only tells part of the story. Of the four Federal district courts in California, my home State, three of them handled more cases per judge than the national average: the U.S. District Court for the Northern District of California, 544 cases; Southern District of California, 611 cases; the U.S. District Court for the Eastern District, 734 cases per judge, 40 percent more than the national average.

So it is this burden that needed to be remedied, and in this bill there were 51 district court judges. It was an important bill.

This situation extends far beyond California. For example, the district court for Nebraska, represented by my colleague CHUCK HAGEL, who has been working on this issue with me, has 627 cases per judge, almost 20 percent more than the average. Other courts with exceedingly high caseloads are in Iowa and Arizona.

The version of the Senate bill that the House Judiciary Committee amended would have added 51 new Federal district court judges, 32 of them permanent, 15 temporary judges whose seats would expire when they retire, and 4 seats that would be converted from temporary to permanent. That version of the bill would also have added 11 judges to the circuits of the Court of Appeals. All of these additions came at the recommendation of the nonpartisan Judicial Conference of the United States. According to their 2003 report, the need for new judges is real and growing.

They go on to state:

> Since 1991, the number of criminal case filings has increased 45 percent and the number of criminal defendants is 35 percent higher.

Then it continued on with the statistics. When the judges tell us that they need more judges to supervise criminal trials, to secure our borders, and to crack down on deadly firearms, it is our obligation to listen and to act, because these judges are the linchpin of our justice system. Just as we need soldiers to help win the war on terror, we need enough judges to keep safe at home.

Instead of moving forward to simply add judges, which is what we need, the House essentially sabotaged the bill by adding an amendment to split the Ninth Circuit into these three new circuits.

This is not the time or the place for such an action. I am very much aware of arguments in favor of splitting the Ninth Circuit. In the Senate Judiciary Committee we have been debating this for years and, as I said at the Senate hearing on the issue earlier this year, I welcome the hearing and look at it with a much more open mind than I have in the past. I am sensitive to the fact that the Ninth Circuit had a 13-percent increase in caseload in a single year.

However, this is only one side of the argument. We have testimony from the chief judge of the Ninth Circuit, whom I respect greatly, who informs me that the size is not an obstacle to efficiency. We have letters from the State Bar Associations of California, Arizona, and Hawaii opposing a circuit split. I have a letter from Governor Schwarzenegger of California opposing a split of the Ninth Circuit. I have letters from eight judges in the Ninth Circuit opposing a circuit split, and also a letter from Senator SESSIONS saying that he has received letters from 15 Ninth Circuit judges opposing a split.

Suffice it to say that reasonable minds can differ on whether the Ninth Circuit should be split. What reasonable minds, I think, have to agree on is this is no way to undertake such a momentous change in our Nation's history. I suspect what is happening is that opponents of the Ninth Circuit are trying to take a bill that we need, add new judges, and make the Congress accept the split to the Ninth Circuit as the price.

The fact of the matter is the split they propose will not equalize the caseload. There will still be a disproportionate caseload with the methodology used in the split followed by the House decision voted on this morning. Under the House bill, the new Ninth Circuit, with California, Hawaii, Guam, and the Northern Mariana Islands, would have 407 cases per circuit judge. That is much more than the new Twelfth Circuit, of Nevada, Arizona, Idaho, and Montana, which would have 280 cases per circuit judge. It is also much more than the new Thirteenth Circuit, of Alaska, Oregon, and Washington, which would have 279 cases per judge. So the House bill does not solve the problem of an even split of cases between the circuits.

What we found as we looked at this over the years is that an even split cannot happen unless California is split in half, because the State, and ergo the

number of cases, is simply too large. This has always been the dilemma.

Additionally, this legislation causes major new costs. The Administrative Office of the Courts states that the startup costs for a three-way split that the House today demanded would ring up $131.3 million to make that particular split.

Despite the need for new judges, I cannot accept this ploy. This is the time for new Federal judges. It is not the time to split the Ninth Circuit. I think the House of Representatives has harmfully cemented one weighty issue to the other and it is not going to work.

So, regretfully, I must place a hold on this bill. I hope Members who are concerned about this will listen, and I hope it is not too late to work out some solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak 10 minutes as if in morning business.

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

THE GUARD AND RESERVE FORCES

Ms. LANDRIEU. Mr. President, I know the issue the Senator from California raised is very important and will be considered as we go forward in our debates, as our session wraps up. The Senator from Connecticut and the Senator from Maine have done an outstanding job in managing the underlying bill and helping us come to grips with some of the new fundamental changes necessary to reorganize our intelligence communities to face the challenges confronting our Nation. I do not want to take too much time away from that very important debate. But I did feel compelled to come to the floor and raise an issue regarding our military families, especially the families of our National Guardsmen and Reservists. They, too, are so critical to meeting and defeating enemies on the home-front and in Iraq and Afghanistan.

Because we call on thousands of Active men and women in our armed forces, as well as reservists in our Guard and Reserve, to be in the forefront of the battles in Iraq and Afghanistan, I thought it was important to come to the floor to share some information that will disappoint people in Louisiana and across the United States.

Right now, somewhere in this Capitol, there is a conference meeting trying to finalize a tax relief package that we refer to around here as FSC/ETI. It is a necessary change in our Tax Code because of some trade decisions that were made relative to the way Europe and America conduct trade and impose taxes and fees on imports and exports. For several months, members of the Senate Finance Committee and Members of the House Ways and Means Committee have been working to reach a final agreement. Different amendments have been added and subtracted as a means to bring the bill closer to final passage.

One of the amendments that I thought was one of the most important amendments in that bill—one that my colleagues in the Senate, Republicans and Democrats, agreed to unanimously called for tax credits to be made available to employers who continued to pay the salaries of their employees if those employees had been activated for duty in the National Guard and Reserves. The Senate agreed that if we were going to give tax relief and a trade fix for corporations and for businesses, then we should also find space in that bill to provide tax relief in some way to the patriotic employers who are trying to help their employees in the Guard and Reserve make ends meet. We should do that so the men and women who put the uniform on every morning and run those patrols ferreting out insurgents and terrorists in Iraq would not have to take a pay cut to do their job to defend America. We want those troops focused on the war-front, not whether bills have been paid on the home-front.

Americans might be shocked, because I am shocked, and I am disappointed, that our Government has not yet found a way to make sure that when we call up the men and women basically out of their regular life—as doctors or lawyers or truck drivers or nurses or teachers or government workers or firefighters or police officers—and ask them to leave their families, leave their jobs, leave their businesses and go fight on the front line for us, that we have not found a way to make sure they can do that without taking a pay cut. The GAO has documented that 41 percent of the Guardsmen and Reservists fighting for us—being called away from their homes, away from their families, and putting their lives in peril and great danger—are doing so with a pay cut. We need to provide them a helmet and a gun and a flak jacket and some protection. But I think we also should make every effort to ensure their families back-home have some stability. We should take steps so that the troop in Falujah knows his employer can take care of his family.

If this Congress and the President were not already enacting trillions in tax cuts and we were adhering to a plan of fiscal responsibility, I might be able to look these families in the eye and say, ''Sorry we have a budget deficit. We are doing the best we can.''

But do you know what the shame of it is? There is a conference meeting somewhere in this Capitol giving out tax relief to people who already have a lot of money, to corporations some of which may be on the front line but many of which are not, and we have the Republican leadership on the House that says we cannot afford a tax credit to benefit patriotic employers, our Guardsmen and Reservists, and their families. We are asking our men and women in unifrom to bear 100 percent of the risk and burden of fighting the war on terror. Yet in all the tax relief in the Republican-drafted plan, the Republican-leadership plan drafted by Chairman THOMAS, we can't find one penny to make sure the military families get a full paycheck. The cost of my amendment amounts to less than .1 percent of all the Bush/Republican tax cuts enacted since 2001. My amendment is even offset, but the Republican leadership simply refuses to help military families.

Since 2001, the Republican leadership has passed over $2.1 trillion in tax cuts and tax breaks for the wealthiest Americans. I supported some of these tax cuts but the major beneficiaries have been wealthy individuals who had already accumulated great assets, and corporations. Direct support for military families has been less than .1 percent, or $1.37 billion, of the $2.1 trillion in tax cuts.

If you remember, in 2001, we had one bill for tax cuts which we called the Military Family Relief Act. It amounted to $1.37 billion out of $2.1 trillion. So the bulk of the tax relief is going to people who are not on the front line. Only limited help is going to the people on the front line.

You can see the graph here, $2.1 trillion to everybody else who is not in uniform and $1.37 billion to the military families who are fighting the battle. I don't understand how we are fighting this war. Maybe somebody can explain it to me.

At least people say: Senator, you must not understand that much of these tax cuts get to the military families; it is just not directly. If they have children, they might get the child tax credit. I understand that. But 75 percent of the enlisted men and women in our armed services make less than $30,000 a year. A staff sergeant with 8 years of experience makes $30,000 a year. So if you don't write them directly into the bills—because the bills are skewed to those individuals and families making over $75,000, mostly $100,000, $200,000, $300,000—the military families don't get to take advantage of tax cuts.

Time and time again, every time a tax bill passes this Congress, the military family is left on the cutting room floor. In 2001, we passed the Economic Growth Tax Relief Reconciliation Act, $1.6 trillion—direct support for military families was $0.

In 2002, we passed the Jobs and Growth Tax Relief Reconciliation Act, $41 billion—military families, $0.

In 2003, we passed the Jobs and Growth Reconciliation Act, $230 billion—direct support for military, $0.

This year we passed the Working Families Tax Relief Act, $146 billion—direct support for military families, $0. This $146 billion had no offsets.

Now we have a conference in this Capitol putting together an $81 billion tax bill. And the amendment, the one little amendment we put on to encourage employers to keep the salaries up

for the Guard and Reserve when they are fighting in Iraq, was taken out because we can't afford it. When it left the Senate, we had paid for it. There are plenty of ways the House Republicans could pay for it, today, but helping military families is not in their interests. We could close a loophole that allows companies to leave the United States for the purpose of reorganizing themselves so they do not have to pay taxes. We could close that loophole and gave it to the men and women putting on the uniform to defend our country. These soldiers, sailors, airmen, and marines aren't fleeing the country to avoid paying taxes, yet we don't get tough on the corporations that are leaving the country to avoid taxes. They take every benefit of what this nation has to offer, including the blood and sweat of our troops, and pay nothing in return. But, some in Congress want to put these corporations in front of our men and women in uniform.

Let me also say I am ashamed for our Government that we have not yet closed our own loophole when a Federal Government worker takes off the Government suit or dress or uniform and puts on the military uniform and goes to fight on the front lines of Iraq. The US Government, as an employer, does not fill the pay gap for Federal employees.

Mr. President, 41 percent of the guardsmen and reservists who are fighting in Iraq take a pay cut to fight and we keep passing appropriations bills and tax cuts to give everyone in the world a tax break, except our military families. And, our poor military families ask for help and we have the Republican leadership in the House telling them: Sorry, there is no more money.

I just got back from Fort Polk a couple of weeks ago, where I have 4,000 maybe 5,000 families in Louisiana whose primary breadwinner has stopped winning bread at home and gone over to Iraq to help fight this war. I promised them that I was not going to just come on home without a fight or without raising this issue for the 5,000 families in my State and for the thousands of families around this country who do not ask for much. They ask for good training. They ask for equipment. And they are asking that they don't take a pay cut when they go to fight. They are not asking for a pay raise; they just don't want a pay cut. They'll get that pay cut if we let this last tax bill go out of here without fixing this provision or without giving some tax credit to companies, many of them small businesses, who continue to pay their activated Guard and Reserve employees.

You can understand why a small business sometimes can't afford to continue to pay the guardsmen and reservists 100 percent of their salary and then have to pay 100 percent of the salary for a replacement.

We are asking for a tax credit for these employers so they can voluntarily, if they want, continue to pay the salary of their Guard and Reserve, take a tax credit so we would basically share that expense among everyone and allow that guardsman and reservist to get a full paycheck.

I repeat for the record, the GAO reports that 41 percent of the guardsmen and reservists called to active duty take a pay cut. We could fix that, but for some reason we do not want to, we do not think we should, or we do not have the money. Yet at the same time we are fixing a lot of things for a lot of people and passing one appropriations bill and one tax bill after another.

Forty percent of those serving in Iraq and Afghanistan are Guard and Reserve; 410,000 families or individuals have been activated since September 11. We probably have a few more thousand to activate until we get it right in Iraq.

We can pay for this, as I said, by closing loopholes, but the Republican leadership said, ''No.'' We cannot not pay for it. They have passed tax bills out of here and chalked it up to more debt. This would not be that much to add for people assuming 100 percent of the risk to defend this Nation, but they do not choose to do that, either. Right now, as I speak, 3 o'clock today, it is not in the bill.

I hope these words are traveling through this Capitol. I hope there are people listening and phones start ringing to include the military families in this FSC/ETI bill that is moving through conference so this tax relief can be given and the pay gap can be closed. If you are on the front line, taking 100 percent of the risk, the last thing you need to take is a pay cut.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, does the rule of germaneness apply under cloture?

The PRESIDING OFFICER. Germaneness on debate is required on cloture.

Mr. BYRD. I ask unanimous consent to speak for not more than 10 minutes on a matter not germane to the pending matter before the Senate.

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

VETERANS BENEFITS

Mr. BYRD. Mr. President, West Virginians have a long and proud record of service to the U.S. military. General Stonewall Jackson, one of the greatest military minds of his time, hailed from present day West Virginia. Chuck Yeager, the World War II ace and the first man ever to travel faster than sound, is proud to be a West Virginian. SSG Junior Spurrier left his home of Bluefield, WV, to fight for the liberation of France and received just one fewer awards than the legendary Audie Murphy, the most decorated American soldier in World War II.

There are many more West Virginians whose names will not be recorded in the great military histories of our country, but these veterans have asked little of their country. They have a right to expect that our Government will provide them with the benefits they earned in service to our country, and that is the one thing they do expect.

Time and time again, President Bush has turned his back on veterans who have served our country. Over and over again, President Bush has had to choose between veterans programs and budget-busting tax cuts for the wealthy, and he has chosen to cut taxes for America's super-wealthy instead of taking care, as he should have, of America's veterans. As veterans evaluate the actions of this administration, I hope they are asking whether they are better off than they were 4 years ago.

For the last 3 years, Congress wanted to increase veterans' benefits by allowing military retirees to keep all of their VA disability checks and the military retirement pay, but President Bush opposed it. He fought against it. In fact, he threatened to veto a $396 billion Defense bill in order to keep Congress from allowing veterans to receive all the compensation they have earned through their service in the Armed Forces. Yes, my colleagues heard me right. President George Bush threatened to veto an entire Defense bill because veterans would get the benefits they had earned.

This year, President Bush approved plans to shut down three veterans hospitals and partially close nine more. What is more, the Beckley VA Medical Center which serves 40,000 veterans in southern West Virginia and is located in my home county of Raleigh narrowly missed the President's chopping block. Only a last-minute intervention by Senator JOHN D. ROCKEFELLER, Representative NICK RAHALL, and me saved the Beckley Veterans Hospital. If the President gets a second term, however, veterans better watch out. You veterans may have to kiss more of your hospitals goodbye.

But the Bush administration didn't bother to wait for a second term before slashing veterans health care in other ways. Last year, the Bush administration decided that an entire category of veterans should no longer be eligible to seek health care from the VA. This wrongheaded decision means that by next year more than 520,000 veterans will be barred from VA hospitals. In other words, the White House says it would be too expensive to let these veterans enjoy their VA health care benefits. How can President Bush claim he supports our troops if he doesn't support VA health care for half a million veterans?

President Bush has also taken to shortchanging veterans to new, disgusting levels. He is no longer content with simply underfunding veterans health care to the tune of $3.2 billion per year, according to leading veterans' service organizations. Now President Bush has decided that some people who served our country in uniform should pay more for their veterans health care benefits. The President's budget for this year doubles the cost of prescription drugs for these veterans, increases their fees for doctor visits by 33 percent, and sticks them with new annual enrollment fees.

I know that when President Bush hits the campaign trail in West Virginia, he will talk about how he cares about veterans, but I doubt that he will tell West Virginia's veterans about his plans to cut their benefits and raise their fees. I am sure you won't hear the President talking about how he has shortchanged the VA, cut veterans health care, fought Congress on veterans benefits, closed veterans hospitals, and increased health care charges.

The Bible says:

. . . by their fruits ye shall know them.

In today's terms, we would say that you have to walk the walk if you want to talk the talk. But when it comes to looking out for veterans, George Bush is ambling off in the wrong direction.

The veterans of West Virginia know about sacrifice. They have given up a lot in their service to this country. This administration has spent 4 years undercutting veterans. The people of West Virginia should know that it is time to stand up for our veterans.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, today what we have seen is a fresh topic of interest, as discussed in the newspaper. I ask unanimous consent that in my hour of time, whatever time I have remaining be available to me as if it were in morning business and that I be permitted to use 15 minutes of that time at this point.

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

PAUL BREMER'S RECENT COMMENTS

Mr. LAUTENBERG. Mr. President, the topic of very active discussion is Mr. Paul Bremer's comments that are in the papers, particularly the Washington Post, today. I say this with a great deal of respect for Paul Bremer. I think he worked hard to do a very good job. He can hardly be described as a leftwing liberal, for sure. He said something that was, to use the vernacular, kind of a show stopper. He said:

We paid a big price for not stopping it (looting) because it established an atmosphere of lawlessness. . . . We never had enough troops on the ground.

This is our person in charge of the transition from Iraq's former government, purportedly to become a democracy. He is the fellow who was in charge in Iraq. We all, whoever went there, visited with him, listened to him. He worked very closely with the military. He is very skilled. But he said it. ''We never had enough troops on the ground,'' and that was the beginning of the problem in which we are now so deeply enmeshed.

We have had generals saying it. We had General Shinseki saying that we needed 300,000 of our troops there to do the job, and not having had enough caused us, frankly, to become mired in a situation that, at least by current appearances, seems as though it is going to hold us there for a long time at a terrible cost in life, terrible cost in family relationships, terrible cost financially as well.

THE VICE PRESIDENT AND HALLIBURTON

Tonight, as everyone knows, the debate will be between Vice President CHENEY and Senator JOHN EDWARDS, for each of them to present their credentials and their views. But I rise to discuss the Vice President's relationship with Halliburton, his financial relationship with the oil company he ran from 1995 to the year 2000, the company that is reaping the benefits of multibillion-dollar contracts from the Bush-Cheney administration.

Vice President CHENEY still receives salary checks from Halliburton for well over $150,000 each year. He holds 433,000 unexercised Halliburton stock options. It presents a very questionable picture when we look on this chart at the orange line which conveys the Halliburton income to Vice President CHENEY from 2001 on, and his Vice Presidential salary. If one looks, we see the compensation from Halliburton exceeded that of the U.S. Government's compensation or pay for the Vice President. In the year 2002, Halliburton fell to $162,000 but then crept back up to where they are very close together. That is, the salary paid by the U.S. Government and the deferred compensation plan that gives Vice President CHENEY $178,000.

When you look at this, it presents a terrible picture. Here is a Vice President of the United States, the next person in line to take over if, Heaven forbid, something happened to the President, and he is getting paid from a company he used to work for. We know this is a deferred compensation plan, that it was earned before.

I also mention the fact that Vice President CHENEY, when he left Halliburton, got a $20 million termination bonus plus over $1 million in another bonus. If we looked at the deferred salary and the nontermination bonus DICK CHENEY has received from Halliburton while Vice President of the United States, it is up to almost $2 million.

This is, if not corrupting in its reality, its functionality. It has the appearance that raises enormous questions. This relationship, coupled with Halliburton's no-bid contract and other contracts in Iraq, is extremely problematic.

On top of the salary, there are 433,000 shares options that are exercisable. I come out of the corporate world and I know how valuable the stock options can be. The profits are committed to a charity, purportedly, but the more you get, the more you can give away.

Why does the Vice President permit this salary arrangement to continue when he could have done away with it, as did Mr. John Snow, who was the Secretary of the Treasury. He wrapped up 6 years' worth of deferred compensation into one year and said: I want to be done with this. I don't want to have my income coming from my former employer while I work for the U.S. Government at such a high level.

By continuing this financial relationship, the Vice President undermines our Nation's ethical credibility here and abroad. On September 14, 2003, the Vice President was asked about his relationship with Halliburton and the no-bid contract on the program, ''Meet the Press.'' Vice President CHENEY told Tim Russert—and I happened to be watching the program; that is what stimulated my interest—the Vice President said:

I've severed all my ties with the company, gotten rid of all my financial interests. I have no financial interest in Halliburton of any kind and haven't had now for over 3 years.

The problem with that statement is that when he said it, he held those 433,000 Halliburton stock options and continued to receive a deferred salary from the company and still has a salary for the year coming into 2005.

I went to the Congressional Research Service to see what the definition of a ''financial interest'' might look like. The Congressional Research Service confirmed to me that holding such options and receiving deferred salary constitutes a financial interest. They agree, and so do I, that when you have deferred compensation, when you have stock options, that is a financial interest. They say if it looks like a duck and sounds like a duck, it must be a duck. There it is, a financial interest.

Even though the exercised prices for Vice President CHENEY's Halliburton stock options are above the current market price, the majority of the options extend to 2009. My goodness, what does it take to free himself from a previous business contact?

When I left the company that I helped start and at which I spent 30 years, the minute I left there all of my options were canceled, to my regret, because there was a lot of money involved.

Any option holder has to hope that the stock price surges so the value of the options increase. One way this can happen is to be sure that lucrative contracts keep coming from the U.S. Government.

In the first quarter of 2004, Halliburton's revenues were up 80 percent from the first quarter of 2003. Why? Wall Street analysts point to one simple factor: The company's massive governmental contracts in Iraq. Those are the things that are responsible for

this increase in revenue and profits, if any.

Vice President CHENEY's annual deferred salary from Halliburton is significant. As I pointed out earlier, in fact, the Vice President's Halliburton salary is as high as his government pay—last year, $178,000 in salary from Halliburton. I have heard the Vice President's defense of his Halliburton deferred salary. He claims that the deal was locked in in 1999 and there is no way for him to get out of his deferred salary deal.

How about if he had an employment contract with the company for 10 years and then became Vice President of the United States, would he say he had to have both jobs at the same time because he had a contract? Come on.

Checking of the facts revealed otherwise. I obtained the terms of Vice President CHENEY's deferred salary contract with Halliburton, and the bottom line is that the deferred salary agreement is not set in stone. In fact, one need only look at the ethics agreement of Treasury Secretary Snow to see what the Vice President should have done in order to avoid taking salary from private corporations while in public office. Secretary Snow took six different deferred compensation packages as a lump sum upon taking office. Get rid of any shadow of doubt, any shadow of conflict.

Worst of all, this financial relationship is going on while Halliburton is ripping off American taxpayers. I am very specific about this. Halliburton is ripping off American taxpayers. I have said it, and I will say it again. Look at the record.

The Pentagon's inspector general revealed that Halliburton, while our people were fighting for their lives, overcharged $27.4 million for meals that were never served to our troops. False records. Fraudulent.

Another Pentagon audit found Halliburton overcharged the Army by $1.09 a gallon for 57 million gallons of gasoline deferred to citizens in Iraq.

Auditors found potential overcharges of up to $61 million for gasoline that a Halliburton subsidiary, KBR, delivered as part of its no-bid contract to help rebuild Iraq's oil industry.

Under its cost-plus contract with the Pentagon, the more Halliburton spends, the more profit it makes regardless of whether that spending is necessary. Several former Halliburton employees have come forward to reveal how the company has taken advantage of this sweetheart deal by spending millions on nonexistent or vastly overpriced goods and services.

According to these former employees, Halliburton engaged in the following wasteful practices: They had its employees drive empty trucks back and forth across Iraq in order to bill for the trips despite the obvious risks that this practice posed to both truck drivers and the 85,000 trucks. Halliburton, under their arrangement, whatever they spent, came up with a profit for them.

If they needed an oil change they would buy a new truck. Halliburton removed all of the spare tires from its trucks and failed to provide basic maintenance supplies like oil filters. This is not something I am making up. It is in the record. As a result, when tires went flat or trucks broke down, they were abandoned or torched, with Halliburton making a profit on the replacements. This is the most sinister of behavior.

When a Halliburton employee needed one drill, his supervisor told him to order four. When the employee said he did not need four drills, the supervisor responded: Don't worry about it, it is a cost-plus contract.

One employee discovered that Halliburton was paying $45 for a case of soda in Kuwait when local supermarkets charged only $7.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator's 15 minutes have expired.

Mr. LAUTENBERG. I remind the Chair that according to the rules under cloture I have an hour of time to be used if I can get an agreement for unanimous consent.

I ask unanimous consent, because the time is going to be used by me, that I be allowed a few more minutes until I finish my remarks.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, reserving the right to object, is there not a germaneness requirement for the debate at this point?

The PRESIDING OFFICER. There is, but the Senator had asked to speak as in morning business for 15 minutes.

Ms. COLLINS. I will not object.

Mr. REID. Mr. President, the time is running against the bill?

The PRESIDING OFFICER. It is.

Mr. LAUTENBERG. Mr. President, I thank the manager. The Senator from Maine has worked very hard on this intelligence reform bill. I supported her as a member of that committee. I know this might be a diversion to her, but I appreciate her consent.

One employee discovered that Halliburton was paying $45 for cases of soda in Kuwait when local supermarkets charged about only $7. And then there are the kickbacks. Halliburton admitted to the Pentagon that two employees took kickbacks, valued at approximately $6 million, in return for awarding a Kuwaiti-based company with lucrative subcontracts.

The scandal is playing itself out in the real world, while this Senate sleeps. It is neglect on everybody's part that this was permitted to continue.

This kind of corporate behavior resembles that of Enron and other corporations that have sought to defraud the Government with kickbacks and bribes and overcharges.

Profiteering during war is an outrageous action, if not a crime. When I served in World War II, if a company profiteered as people were losing their lives, they would be punished. They would have jail sentences in front of them.

That is not what I am suggesting. What I am suggesting is that this is abominable behavior and it ought not be permitted.

When I think of the debate that is going on and JOHN KERRY is accused of being soft on defense, when he served so bravely, when even though he disagreed with the policy of the Government, he served the country loyally, bravely, and was wounded. The assertions that maybe the wounds weren't deep enough were challenged by statements in the paper yesterday where it said that he still has shrapnel in his body from those wounds. Anyone who would suggest that because Senator JOHN KERRY examined the question on moneys being spent for the war, because it included tax relief for some of the richest among us, the fact is, he served without question, without any reservation whatsoever, except he had a difference in policy. But he put his life on the line, which we haven't seen around here, I can tell you, as I have described in past speeches.

I used the identification of the chicken hawk. The chicken hawk is someone who makes war that other people are to fight. I don't think it is fair to tear apart the loyalty, the heroism of Senator JOHN KERRY anymore than it was fair to challenge the heroism or the loyalty of former Senator Max Cleland.

I hope this assault on character can stop and we can discuss the issues that affect the American people.

I yield the floor and reserve the remainder of my time from my hour when I come back to the floor.

The PRESIDING OFFICER. The Senator from Georgia.

CORRECT REPORTING

Mr. MILLER. Mr. President, politics is politics. As we all know, it can be a contact sport. While many things can be considered fair or unfair, depending on your outlook, I think most would agree that the voting record and the printed and stated positions of a candidate or elected official are right and proper to discuss. But it is also important that those who report this discussion be correct in what they report.

Mr. LAUTENBERG. Mr. President, may I challenge whether this is part of the debate on the intelligence reform bill or is this discussing a different matter?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Georgia be permitted to speak as in morning business for 20 minutes, just as the Senator from New Jersey was permitted to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. I have made my request, but I have no objection.

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

Mr. MILLER. I thought we were in morning business. If I may now continue.

It is also important that those who report the discussion be correct in what they report. From most of the national media, we have not had that correct reporting on JOHN KERRY's national defense record.

From the media we have heard, from their review of national defense records, that the liberal Democrat JOHN KERRY and the conservative Vice President DICK CHENEY are, in fact, long lost ideological soul mates, separated only by birth and hair.

We hear from Wolf Blitzer and Judy Woodruff on CNN and Chris Matthews on MSNBC, Alan Colmes of Fox, and the fact finders at the Washington Post and the LA Times that if you took DICK CHENEY and substituted him for JOHN KERRY or if you took JOHN KERRY and substituted him for DICK CHENEY the defense votes that occurred in the House and Senate and the outcomes of defense spending bills and Pentagon operations would be virtually identical.

They would have you believe that when it comes to national defense records, votes and positions, they say the very DNA of DICK CHENEY and JOHN KERRY are practically indistinguishable, that they are doves from the same nest. Or maybe it is hawks now, with Kerry's latest change.

As silly as this assertion is, the Democrats are more than happy to make it because many in the media are only too happy to parrot it. There is no better proof of this than the media's response to the speech I made at the Republican National Convention in New York City.

Now, I was inclined to let the veracity of an old man soon to be retired just go unanswered, thinking that the juice wasn't worth the squeeze. And I would have, if it had been my reputation at stake instead of the safety of my family. Let me start with the LA Times which bought lock, stock, and barrel the Democrats' official line, and I quote:

> The Kerry campaign responded by accusing Miller of mischaracterizing the Senator's record, pointing out that Cheney also voted to cut funding for some of those weapons systems while serving in Congress. Others were targeted for cutback by Cheney when he was Defense Secretary in the first Bush Administration.

USA Today minimized the negative of Kerry's defense votes this way:

> . . . Kerry voted against large Pentagon spending bills that include many weapons three times in his 20-year career. And Defense Secretary Cheney recommended ending some of the same systems that Miller cited.

CNN's Judy Woodruff said this to me only a few minutes after my speech:

> JOHN KERRY voted for 16 of 19 defense budgets that came through the Senate while he was in the Senate, and many of those votes you cited, DICK CHENEY also voted against.

Wolf Blitzer of CNN emphasized the similarity of KERRY and CHENEY:

> When the Vice President was the Secretary of Defense, he proposed cutting back on the B–2 bomber, the F–14 Tomcat as well. I covered him at the Pentagon during those years when he was raising serious concerns about those two weapons systems. . . .

And then, that citadel of sanctimony, the home of the whopper, the Washington Post, weighed in with this totally untrue statement:

> Miller's list was mostly derived from a single KERRY vote against a spending bill in 1991, rather than individual votes against particular systems.

Later, a Washington Post analysis added:

> KERRY did not cast a series of votes against individual weapon systems, but instead KERRY voted against a Pentagon spending package in 1990 as part of deliberations over restructuring and downsizing the military in the post-Cold War period.

Editorial pages began to chime in, such as the Philadelphia Daily News:

> Miller charged that KERRY has voted to strip the Armed Services of necessary weapons systems when DICK CHENEY, as Defense Secretary, proposed many of the cuts and voted for others.

Mr. President, is this true? Are there just a handful of votes by KERRY against weapons systems? Are those votes identical to those by DICK CHENEY? Did the media have their facts straight? And even more important, did they really want to have their facts straight? Or did they just simply adopt, without verification, the talking points from the KERRY campaign?

Let's start at the beginning. I said in my speech that KERRY ''opposed the very weapons systems that won the Cold War and that are now winning the war on terrorism.''

I then listed the systems that KERRY opposed, such as the B–1, the B–2, F–14A, F–14D Tomcats, the Apache helicopter, the F–15 Eagle, the Patriot missile, Aegis cruiser, the SDI, and the Trident missile.

Did KERRY oppose the weapons systems that won the Cold War? The answer is yes.

In 1984, JOHN KERRY ran for the Senate and built his campaign around the promise to reverse what he called ''the biggest defense buildup since World War II,'' a buildup he considered in his words, ''wasteful, useless, and dangerous.''

In a key 1984 campaign document, KERRY identified 16 weapons systems he wanted to ''cancel.''

All of those weapons systems that I stated that KERRY opposed are found in this 1984 document, except for two—the Trident missile and the B–2 bomber. But Senator KERRY's opposition to those was reported in other press interviews in 1984.

Mr. President, this 1984 campaign document is the first, but by no means the last, of KERRY's opposition to these weapons systems.

It is strange, but there has not been a single story that I can find in the media about this document. No one wants the American people to see what KERRY was wanting to cancel at the height of the Cold War.

This document doesn't exist as far as the national media is concerned. But it is vital to any debate about JOHN KERRY's national defense record because it spells out in KERRY's own words his complete and total opposition to these weapons systems. This document begins and ends with the word ''cancel.''

In his own words, JOHN KERRY says ''cancel'' the MX, the B–1, the ASAT, SDI, the Apache helicopter, the Patriot, the Aegis cruiser, the Harrier, the Tomcat, the Eagle, the Phoenix, the Sparrow, and all of the other weapons systems listed on this chart.

If you are like most people, you might read this document and say, if JOHN KERRY wants to cancel these weapons systems, it certainly doesn't mean he is for them. So then he must oppose them. In the name of common sense, could you have any other meaning from this?

The media tells us that just because JOHN KERRY wanted to cancel those systems, that doesn't mean he opposed those systems. Such is their strange and twisted logic.

Because the media is not convinced JOHN KERRY meant ''cancel'' when he said ''cancel,'' they ignore this document and think the American people should, too.

Those who don't ignore this document dismiss it, basically because KERRY opposed these systems 20 years ago. So what is the big deal today?

Here is why it is a big deal. This document came out in 1984, when America was in a life-and-death struggle with the Soviet Union. At that time, the Cold War was anything but cold, and it was certainly not over.

The premier of the Soviet Union was not Gorbachev but Konstantin Chernenko, an old Brezhnev hard-liner.

This document that outlined JOHN KERRY's vision for our national defense, which the media ignores and doesn't want you to know about, came out about 6 months after the Soviet Union shot down Korean Airlines 747 filled with 269 civilians.

This Kerry proposal came at a time when Soviet troops were at the halfway point of their armed invasion of Afghanistan.

This Kerry proposal came at a time when Cuban troops were in Angola and Kampuchea.

This Kerry proposal came at a time when Marxists insurgents had taken power in Nicaragua and were pushing northward into El Salvador.

This Kerry proposal came at a time when insurgents and terrorists were on the attack, and the way KERRY wanted to deal with them was by canceling crucial weapons systems.

Here, at the height of the Cold War, at a time when we were playing cards with the devil himself, when our own future, the world's freedom, and the fate of half a billion souls from Poland to Siberia, from the Baltic to Crimea, were all in the pot, JOHN KERRY said ''fold them'' to what ultimately turned out to be one of the biggest winning hands ever played for freedom.

That is why this 1984 document is a big deal, Mr. President. I ask unanimous consent that this document be printed in the RECORD.

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

JOHN KERRY ON THE DEFENSE BUDGET

''We are continuing a defense buildup that is consuming our resources with weapons systems that we don't need and can't use.''

The Reagan Administration has no rational plan for our military. Instead, it acts on misinformed assumptions about the strength of the Soviet military and a presumed ''window of vulnerability'', which we now know not to exist.

And Congress, rather than having the moral courage to challenge the Reagan Administration, has given Ronald Reagan almost every military request he has made, no matter how wasteful, no matter how useless, no matter how dangerous.

The biggest defense buildup since World War II has not given us a better defense. Americans feel more threatened by the prospect of war, not less so. And our national priorities become more and more distorted as the share of our country's resources devoted to human needs diminishes.

JOHN KERRY HAS A DIFFERENT APPROACH

John Kerry believes that the time has come to take a close look at what our defense needs are and to plan for them rather than to assume we must spend indiscriminately on new weapons systems.

John Kerry believes that we can cut from $45 to $53 billion from the Reagan Defense budget this year. Some of these cuts include:

Major nuclear programs

MX Missile, Cancel, $5.0 billion
B–1 Bomber, Cancel, $8.0 billion
Anti-satellite system, Cancel, $99 million
Star Wars, Cancel, $99 million
Tomahawk Missile, Reduce by 50 per cent, $294 million

Land forces

AH–64 Helicopters, Cancel, $1.4 billion
Division Air Defense, Gun (DIVAD), Cancel, $638 million
Patriot Air Defense Missile, Cancel, 1.3 billion

Naval forces

Aegis Air-Defense Cruiser, Cancel, $800 million
Battleship Reactivation, Cancel, $453 million

Aircraft

AV–8B Vertical Takeoff and Landing Aircraft, Cancel, $1.0 billion
F–15 Fighter Aircraft, Cancel, $2.3 billion
F–14A Fighter Aircraft, Cancel, $1.0 billion
F–14D Fighter Aircraft, Cancel, $286 million
Pheonix Air-to-Air Missile, Cancel, $431 million
Sparrow Air-to-Air Missile, Cancel, $264 million

In addition, acquisition of equipment and supplies should depend on real defense needs, not inter-service rivalries. ''National security'' is no excuse for bad management practices. The Congressional Budget Office and the General Accounting Office'' agree that an additional $8 billion can be saved by implementing the recommendations of the President's own Grace Commission Report.

''I will never forget that the Defense Budget is not an employment program, but a tool to provide the nation with a strong, lean and stabilizing defense posture.

Finally, John thinks it's time for a Senator who will stand up for what's right and not go along with what's expedient.

''If we don't need the MX, the B–1 or these other weapons systems. . . . There is no excuse for casting even one vote for unnecessary weapons of destruction and as your Senator, I will never do that.''

Mr. MILLER. This document is not the end of this sorry story, for with these weapons systems clearly in his crosshairs as candidate JOHN KERRY, Senator JOHN KERRY pulled the trigger on them his first year in the Senate in 1985, and then again at every other chance he got.

In 1985, the ''series of votes against individual weapons systems'' the Washington Post so snugly swore never took place began.

In all, 14 Senate votes took place in 1985 alone on 5 of the specific weapons systems Kerry pledged to cancel. Mr. President, 13 of his 14 votes in 1984 were to cut the defense systems he promised to cancel.

Four of those were to cut the MX peacemaker missile; two votes were to cut antisatellite weapons; two votes were to cut SDI; another vote was to restrict SDI's use; another vote was to cut battleship reactivation; and another vote was against binary weapons.

KERRY's only vote not to cut a defense program was on SDI. You know why? Because after voting three times to cut SDI by as much as $1.5 billion, KERRY voted against a cut of $160 million because he said it didn't cut SDI enough.

So when it comes to the weapons systems that won the Cold War, JOHN KERRY said in 1985 he wanted to cancel them, and then in 1985 he voted against them 13 out of 14 times.

There were two other votes to cut back overall defense spending, for a total of 16 votes in 1985 on national defense alone; but the Mr. Magoos down at the pious Post somehow could not locate these facts.

In fact, the Washington Post could not only find ''a'' vote—one single solitary vote over 20 years—where JOHN KERRY voted against defense. That single antidefense vote was after the Cold War in 1990 or 1991, depending upon which Washington Post report you read.

Judy Woodruff did some better. She found 19 total defense votes over KERRY's 20 years in the Senate. There were 16 votes in 1985 on defense systems and overall spending alone.

She also claimed that CHENEY voted the same way as KERRY on ''many of those'' 19.

Yet how many can ''many'' be if CHENEY and KERRY served simultaneously in Congress for only 4 of those 19 annual budget fights?

But Wolf Blitzer's defense of KERRY's national defense record was the most interesting. With the wave of a hand, Blitzer dismissed the numerous votes by KERRY against these weapon systems that occurred years before as well as the years after CHENEY was Secretary of Defense.

CHENEY's position in 1990 and KERRY's opposition in 1984 is the difference between opposing the Sherman tank and the B–29 in the year before D-day and then wanting to cut back on them the year after V–J day.

Mr. President, you could review the series of JOHN KERRY votes on weapons systems in 1986, 1987, 1988 and 1989—all that occurred before the Berlin Wall fell.

The fact is you can look at KERRY's votes during the cold war, after the cold war, before Desert Storm, after Desert Storm, after the first World Trade Center attack, before the war on terrorism and now during the war on terrorism, and you will find JOHN KERRY was one of the most reliable ''no'' votes against the weapons our soldiers needed to defend this country and keep the U.S. safe.

The point is if the media won't tell you what the impact of KERRY's position would have been on the cold war, they sure are not going to tell you what the impact would be today on the war on terrorism.

So let me sum up what we can learn from the media's response to my speech at the Republican National Convention on JOHN KERRY's defense record.

The media can only find JOHN KERRY opposing defense weapon systems that Secretary CHENEY opposed also.

The media will only count overall spending bills as a vote against a weapon system, and will not count the numerous votes on the systems themselves nor the overall budget plans as votes on the systems or national defense.

And the media can simply find no votes by JOHN KERRY against any weapon systems during the height of the cold war—not a one. Not a single one.

What they found, or what they want you to believe they found is that CHENEY and KERRY had practically identical national defense voting records during the cold war. And that is flagrantly wrong.

Let me take another minute to look at this.

In 1985, the House in which CHENEY was a Member had a series of votes on 17 specific weapon systems.

Seventeen of DICK CHENEY's seventeen votes were to protect the defense systems.

Seven ayes on seven votes to protect the MX peacekeeper missile;

Six ayes on six votes to protect SDI;

Another vote to protect the Trident II missile;

Another vote to protect binary weapons;

Another vote to protect chemical weapons; and

Another vote to protect ASAT weapons.

During the height of the cold war, essentially every vote by DICK CHENEY was the mirror opposite of JOHN KERRY.

Where CHENEY repeatedly voted for weapon systems, KERRY repeatedly voted against those weapon systems.

Where CHENEY supported President Reagan's announced position on each vote on these weapon systems, KERRY opposed President Reagan's announced position on each vote.

The sole vote of JOHN KERRY against a cut in defense was because he wanted

a bigger cut—a cut as much as ten times larger in SDI.

So there are differences between DICK CHENEY and JOHN KERRY on national defense. It's the difference between the world's biggest and greatest military superpower and, well, spitballs.

Mr. President, I probably have wasted my time and just spit in the ocean because we all have learned the hard way that the elite media can do anything it wants and sell anything it wants.

We saw earlier this year the New York Times and Washington Post repeat on their front pages false allegations by Ambassador Joe Wilson about Niger uranium and his wife's role in his own activities, but they then buried the correction somewhere in the back pages.

We saw Newsweek's Evan Thomas report that: ''The media want Kerry to win'' and that support, in Thomas's words, ''is going to be worth maybe 15 points.''

We see CBS News having to admit they were pushing forgeries about President Bush's National Guard service.

The national media's all-out defense of JOHN KERRY's indefensible defense record falls into this same sorry and disgraceful pattern of selling an agenda rather than the facts.

What I said in New York was true. It was true then. It is still true now.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

JOHN KERRY'S DEFENSE RECORD

Mr. REID. Mr. President, JOHN KERRY's record on defense reflects more than approximately 10,000 votes he has cast in the Senate. His defense record goes back to the steaming jungles of Vietnam where he, as a young sailor commanding a fast boat, went into harm's way on many different occasions. We know about the number of those occasions because his defense record indicates that the Government of the United States awarded him two medals for heroism—one a Bronze Star, one a Silver Star. He was wounded on three separate occasions and received three Purple Hearts. They were awarded not by some gentleman's club but by the U.S. military.

On the programs about which we have heard a dissertation today, as we look through those—except for the MX missile, which was canceled by the President of the United States, not by Congress, as I recall—all of these programs came into being. So to think that any one Senator, with the hundreds and hundreds of votes on defense matters, stopped the Cold War from being won is really a little silly, for lack of a better description.

Senator JOHN KERRY supported more than $4.4 trillion in defense spending, including for 16 of the last 19 Defense authorization bills. In fact, he voted for the largest increase in defense spending since the early 1980s.

JOHN KERRY is a strong supporter of the U.S. armed services and has consistently worked to ensure the military has the best equipment and training possible. In 2002, as an example, Senator KERRY voted for the largest increase in the history of the defense budget. This increase provided more than $355 billion in the Defense Department for 2003, an increase of $21 billion over the previous year. This measure includes $71.5 billion for procurement programs, such as $4 billion for Air Force's F–22 fighter jets which are now going to be stationed at Nellis Air Force Base in Las Vegas; $3.5 billion for Joint Strike Fighter which will also be stationed in Las Vegas at Nellis Air Force Base, and $279.3 million for the E–8C Joint Stars aircraft.

Senator KERRY's vote also funded a 4.1-percent pay increase for military personnel; $160 million for the B–1 bomber defense system upgrade; $1.5 billion for a new attack submarine; more than $630 million for Army and Navy variants of the Black Hawk helicopter; $3.2 billion for additional C–17 transports; $900 million for R&D of the Comanche helicopter; and more than $800 million for the Trident submarine conversion.

For someone who has served in the Senate for 20 years—this is just one Senator's opinion—it speaks well of him that he is not a rubberstamp for requests submitted to us by the Defense Department. That is what we are. We are a separate, equal branch of Government, the U.S. Congress, and our part of it is the Senate. We have an obligation to review very closely what is given to us by the Pentagon and given here. They always ask for more than they deserve, knowing that we are going to turn down some requests. We have budgets to meet also. It speaks well of Senator KERRY if he did not rubberstamp everything they asked for.

As to the Bradley fighting vehicle, which was mentioned in the previous speech, Senator KERRY supported $8.5 billion for the Bradley program. That is not bad. Senator KERRY, for the M–1 Abrams tank, has supported at least $21.5 billion in defense authorization for that tank.

He has supported all five new aircraft carriers since he joined the Senate. Since 1985, JOHN KERRY has voted to start work on each of the five new aircraft carriers: the USS *Stennis*, USS *Truman* in 1988, the USS *Reagan* in 1993, the USS *Bush* in 1998, and the newest yet unnamed carrier in 2001. So these aircraft carriers, the *Stennis*, *Reagan*, *Bush*, and formerly the CVNX, he voted for all of those.

The F–15 fighter jets, Senator KERRY supported almost $20 billion in Defense authorizations for the F–15. For the F–16, Senator KERRY supported at least $25 billion in Defense authorization.

There is going to be a debate tonight and maybe that is why the speech was given, but in testimony before the House Armed Services Committee, Mr. CHENEY said:

> If you're going to have a smaller air force, you don't need as many F–16s. . . . The F–16D we basically continue to buy and close it out because we're not going to have as big a force structure and we won't need as many F–16s.

According to the Boston Globe, Bush's 1991 Defense budget ''kill[ed] 81 programs for potential savings of $11.9 billion . . . Major weapons killed include[d] . . . the Air Force's F–16 airplane.'' This was Secretary CHENEY. This was House Member CHENEY. This was Vice President CHENEY.

It is also important to note that Senator KERRY has supported at least $10.3 billion in Defense authorizations for the B–1 bomber.

The Kerry record on the B–2 bomber. He supported $17 billion in Defense authorization for the B–2. Mr. CHENEY proposed cuts to the B–2 program. I am sure there were times when he supported it, as did Senator KERRY. There were times when Senator KERRY thought there was too much being spent, as did Secretary CHENEY.

According to the Boston Globe in 1990:

> Defense Secretary Richard Cheney announced a cutback . . . of nearly 45 percent in the administration's B–2 Stealth bomber program, from 132 programs to 75 . . .

If we want to go back and revisit history a long time ago, we do not have to go back very far to find out, just a couple of years ago, an introduction of JOHN KERRY by Senator ZELL MILLER at the Georgia Democratic Jefferson Jackson Day Dinner, and I quote my friend ZELL MILLER:

> My job tonight is an easy one: to present to you one of the nation's authentic heroes, one of this party's best-known and greatest leaders—and a good friend. He was once a lieutenant governor—but he didn't stay in that office 16 years, like someone I know (Miller). It just took two years before the people of Massachusetts moved him to the United States Senate in 1984.

Further quoting him:

> In his 16 years in the Senate, John Kerry has fought against government waste and worked hard to bring some accountability to Washington. Early in his Senate career in 1986, John signed on to the Gramm-Rudman-Hollings Deficit Reduction Bill, and he fought for balanced budgets before it was considered politically correct for Democrats to do so.

Senator MILLER went on to say:

> John has worked to strengthen our military, reform public education—

Let me repeat this quote:

> John has worked to strengthen our military, reform public education, boost the economy and protect the environment. Business Week magazine named him one of the top pro-technology legislators and made him a member of its ''Digital Dozen.''

Further quoting:

> John was reelected in 1990 and again in 1996—when he defeated popular Republican Governor William Weld in the most closely watched Senate race in the country.
>
> John is a graduate of Yale University and was a gunboat officer in the Navy. He received a Silver Star, Bronze Star and three awards of the Purple Heart for combat duty in Vietnam. He later cofounded the Vietnam Veterans of America.

As many of you know, I have great affection, some might say an obsession, for my

two Labrador retrievers, Gus and Woodrow. It turns out John is a fellow dog lover, too, and he better be. His German shepherd, Kim, is about to have puppies. And I just want him to know Gus and Woodrow had nothing to do with that.

This is a direct quote from Senator ZELL MILLER and, among other things, I repeat, ''JOHN has worked to strengthen our military.''

The record for Senator KERRY supporting the military is, as Senator MILLER said, a stellar performance. He has worked to strengthen our military.

I also say that for someone who opposed the MX missile system, I do not think that makes him a bad guy. We in Nevada did not like the system. It was eventually stopped. If somebody does not support the missile defense system—I think there is probably somebody sitting in the Presiding Officer's chair today, which can only be presided by those on the majority, who does not support the missile defense system. So the fact that people pick and choose what they support for the military does not make them bad.

Senator KERRY's record is very good, and I have gone over some of the things he supported. I am not going to belabor the point, other than to say that Senator KERRY supported the F–18, and he supported the $60 billion defense for that instrument of war. The Cheney F–18 record, he asked for cutbacks on that.

Senator KERRY is a person who truly believes in the military. He was a volunteer as a young man and went and fought, showing heroism in that process, and he is still showing heroism in his defense of this country, under tremendous odds, with terribly negative attacks. For someone who has served with Senator KERRY for two decades in the Senate, I am proud of him. I am proud he is the nominee for my party. He is a man of integrity. He has tremendous competence.

I was on the Select Committee on MIA/POW. He chaired that. The cochair was Bob Smith from New Hampshire. He did a remarkably good job in a most difficult situation.

I wish today had not turned into a situation of trying to talk about Presidential politics, but that is the way it has turned out.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have come to the floor to speak about the issue of reimportation of prescription drugs. I also wanted to talk for a moment about the tax bill that is being negotiated by the conference committee between the House and Senate, especially with respect to the runaway plant issue and tax incentives that now occur for those who shut down their American manufacturing plants and export jobs. I will speak about those two issues briefly.

Before I do that, I'd like to address some of the remarks of my colleague from Georgia, who was speaking when I came to the floor of the Senate.

I disagreed strongly with my colleague when I heard his speech at one of the national political conventions. He certainly had every right to give that speech. I disagree strongly with the presentation he gave on the Senate floor, but he has every right, of course, to express those opinions on the Senate floor.

I have great respect for my colleague from Georgia. I honor his service. He has provided great public service to this country in many different ways, so I honor that service.

But I, of course, reserve the right to disagree with my colleague as well, just as he came to the floor and disagreed with some of the votes that have been cast by Senator KERRY.

The last time I was on the floor when my colleague from Georgia came to speak, he was offering a proposal that we take away the right of the American people to vote for Senators. He proposed instead that Senators be appointed or selected by State legislatures, and that the right of the people to vote for Senators should be rescinded.

Well, I thought that did not sound like a very modern approach. We left that idea a long time ago in this country, and I got up and spoke and indicated I did not have quite such a pessimistic view of this country's future and certainly did not agree that we ought to revert back to the States appointing their Senators and taking away from the American people the right to elect Senators. But that was the only previous occasion I recall on which I took the floor of the Senate and disagreed with my distinguished colleague from Georgia. I must say, however, that I feel compelled to disagree once again.

I have not come to the Senate floor to be critical, ever, of President George W. Bush's military record. I would not do that. And I would not be critical of Senator KERRY's military record. Both of them served.

My colleague came to talk about Senator KERRY's record in voting for defense for this country. This is not a new technique in American politics. This is timeless. It always happens that someone stands up and points at someone else and says: You don't represent this country's interests in defense. You don't support a strong defense. You are not willing to stand up when you need to stand up and be counted and support a strong defense for this country.

Sometimes that works. But let me just say this. I don't think it works when you point at someone who decided on graduation from Yale that he would volunteer to go to Vietnam; not only that, he would volunteer to serve on a swift boat, where he was certain to be involved in hostile action. He didn't have to do that. He did that, he volunteered. He received a Bronze Star, a Silver Star, three Purple Hearts, and still has fragments in his body from the wounds from which those Purple Hearts arose. I don't think it works to point fingers at that man and suggest he, somehow, is weak on defense.

My colleague's assessment of Senator KERRY has changed some. Senator REID pointed out that in March of 2001, at a banquet in Georgia, my colleague from Georgia introduced Senator KERRY. Here is what he said about him:

> My job tonight is an easy one. It's to present to you one of this Nation's authentic heroes, one of this party's best known and greatest leaders, and a good friend.

Then he said this, my colleague from Georgia:

> John has worked to strengthen our military, reform public education, boost the economy and protect the environment.

Let me say that again because it is important. It is at odds with what we just heard from my colleague from Georgia on the floor of the Senate this afternoon. Speaking of JOHN KERRY, my colleague from Georgia said:

> John has worked to strengthen our military.

This is a speech from March 1, 2001. What is the difference between then and now? JOHN KERRY has had the same record on defense.

Incidentally, JOHN KERRY has supported a great amount of this country's defense: the Apache helicopter, Aegis, The Bradley, Black Hawk, B–2 bomber, C–17 cargo jets, F–16, F–18, Tomahawk missiles, C–130s, and I could go on and on and on. Billions, tens of billions, yes, trillions of dollars for defense Senator KERRY has voted for.

What is the difference between March 1, 2001, in my colleague's assessment of Senator KERRY where he said ''John,'' speaking of Senator KERRY, ''has worked to strengthen our military,'' what is the difference between that and the discussion we have just heard today? The difference is, it's an election year and my colleague has, apparently, decided to change his mind. If there were an Olympic event called ''stretching,'' I have a couple of personal nominations for who might win the gold medal.

This ought not be, in American elections, an attempt to find out who is the worst. It ought to be a search for who is the best. Who can best lead this country? Who has a vision for the future that grows our economy, that protects our country, protects our homeland, provides for a strong defense, protects the environment? It is a search, in my judgment, for who is the best, not who is the worst.

We have two candidates running for President, both fully qualified to serve in that office. It does not serve our country well to point at one and say somehow he is weak on defense, doesn't support defense, especially when it is so at odds with the record. But it is now an election year. I guess almost anything goes.

There is a term, I suppose, for changing one's mind, and it is called flip-flop. I have not used it, but some have used it to the point of significant repetition this year. I will not use it here

except to say what we have just heard today is at significant odds, not only with the record of a member of our caucus who has served with great gallantry but also at odds with the previously stated views of the person who made the speech today.

Let me end as I began and say I honor the service of the Senator from Georgia. I disagree with him about these issues. Four weeks from today this country will see fit to make an informed choice between two men who strive to serve for the next 4 years as this country's President. Both candidates, I am sure, care about national security. Both care about homeland security. As was stated in the debate last week, both love this country.

I submit, just as one Senator, both are qualified to serve in that office. Both parties have nominated people they choose to support and support aggressively. I come to the Senate floor today to simply say this: JOHN KERRY is someone with whom I have served for many years. I have watched him vote. The fact is, he supports a strong defense for this country. He always has and always will. When it came time to answer his call, his country's call, he left one of the prestigious colleges in this country upon graduation and said: Let me volunteer. He went to Vietnam. He went in harm's way.

There is no amount of energy or wind that can be exerted by others who will change the basic fact of a voting record that is in strong support of America's defense.

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

Mr. DORGAN. I am happy to yield.

Mr. REID. I say through the Chair to the Senator from North Dakota, the Senator from North Dakota has served more than 2 decades in the Congress of the United States?

Mr. DORGAN. That is correct.

Mr. REID. So you have been called to vote on every Defense bill and hundreds and hundreds of amendments offered on those Defense bills over the years.

As strong as the Senator from North Dakota is on matters relating to the U.S. military, I don't know this, but I will bet there were occasions that you voted to cut certain programs; is that right?

Mr. DORGAN. I say to the Senator, I have, in fact. I serve on the appropriations subcommittee here on the Senate. I care a lot about this country's defense. And I voted against the MX missile program, because I felt it was a terrible waste of money. But I am a strong supporter of defense. I believe anyone who looks at my record will understand the weapons programs I supported, significant weapons programs, have added strength and boosted this country's capability.

Because I serve on the Appropriations Subcommittee on Defense, I watch what others do as well. From a firsthand knowledge, I say that Senator KERRY has a strong and aggressive record in supporting this country and supporting a strong defense for this country.

Mr. REID. The point I make, and I would like the Senator to respond to this, a person from time to time, in service in the Congress of the United States, votes for amendments to cut spending in different areas for a lot of different reasons. They still can be some of the strongest hawks we have around here; isn't that true?

Mr. DORGAN. No question about that.

My colleague from Georgia was talking about Vice President CHENEY and JOHN KERRY. I didn't quite understand that comparison of their records on defense. I have lived a couple of doors down from Dick and Lynne Cheney for a number of years. I know them well. I would never come to suggest somehow that DICK CHENEY doesn't support a strong defense. And I know JOHN KERRY very well. I certainly wouldn't come to suggest he doesn't support a strong defense. Both of them have records that demonstrate a support for this country's defense.

Well, enough about that. I didn't come to the floor of the Senate to speak about that. But I felt that there should be some response to the statement by the Senator from Georgia this afternoon which I think, frankly, is not supported at all by the facts.

AMERICAN JOBS

On May 5 of this year, we had a vote in the Senate. That vote was on an amendment that I had offered, together with my colleague, Senator MIKULSKI from Maryland. The intent of the vote was to shut down a loophole that rewards U.S. companies that move their manufacturing jobs overseas.

Yes, we have that kind of loophole. It is a perverse, insidious loophole in our Tax Code that says: Shut down your U.S. manufacturing plant, get rid of your U.S. employees and outsource those jobs, and, God bless you, while you leave this country, we will give you a tax cut.

Talk about a perverse incentive to do exactly the wrong thing, that is it.

We are now seeing the conference committee between the Senate Finance Committee and the House Ways and Means Committee meet and negotiate over a FSC/ETI bill, sometimes also called the ''jobs bill.'' If they finish putting this bill together in conference and do not include a provision to eliminate this perverse incentive, they will have done precious little to help protect, nurture, and strengthen American jobs.

Incidentally, when I offered this amendment on May 5 of this year, the amendment was tabled by a vote of 60 to 39. Sixty Members of the Senate voted to say they did not want to shut down a tax loophole that provides an incentive for companies to fire their American workers and move their U.S. jobs overseas. So that loophole still exists in tax law.

Now I read in the paper this morning they really do not want to pay for the cost of this FSC/ETI bill by shutting down loopholes. This is unbelievable.

We have American companies now that decide they want to do business through a post office box in the Bahamas or the Grand Caymans. Why? Do they want to be a citizen of the Grand Caymans? Not exactly. They just want to avoid paying U.S. taxes so everyone else can pay taxes that these folks do not pay.

I suggest that once companies have decided to move their corporation and run their business out of a mailbox in the Bahamas for the purpose of avoiding U.S. taxes, the next time they get in trouble maybe they ought to call the Bahamian Navy to protect them. I understand the Bahamian Navy has 20 people. Maybe the next time one of these companies gets in trouble with some expropriated assets or other issue they can call on the combined flexed muscle of the Bahamian Navy.

My point is simple. We have a real problem in this country with the outsourcing of jobs. In the last 4 years, we have actually lost jobs at a time when we are supposed to be creating jobs. We have an expanding population. We need new jobs. But we are losing jobs.

I will not give the same speech I have given previously about the Radio Flyer and Huffy bicycles, those quintessentially American products that are now being made in China. I will not talk about the all-American cookie, the Fig Newton, now being made in Monterey, Mexico, so that it is now Mexican food. I will not give the speech about the outsourcing of these jobs to Sri Lanka, Bangladesh, Indonesia, and China. But if this country does not wake up soon and get rid of these pernicious loopholes in the tax law that say, ship your U.S. jobs overseas and we will give you a big tax cut, if we do not do that, we are not going to succeed.

Growing an economy requires us to do the right things. We cannot talk about growing the economy and then support tax loopholes and say, by the way, ship your U.S. jobs overseas. That does not work. We are outsourcing jobs every single day and no one seems to care much about it.

Incidentally, that also relates to the trade deficit, because when we outsource the jobs and ship the products from those jobs back into this country, it means we exacerbate the trade deficit, which is the largest deficit in human history.

One can make an argument as an economist—I used to teach a bit of economy in college—one can make an argument that the budget deficit is money we owe to ourselves. We cannot make that argument with respect to a trade deficit. We owe a trade deficit to other countries. It will be paid inevitably by a lower standard of living in our country in the future.

The largest trade deficit in history ought to be cause for substantial alarm in this Chamber and at the White

House. Yet there is almost a conspiracy of silence all around this town about a trade deficit that, in my judgment, hurts this country very badly.

Incidentally, Lou Dobbs has written a book about this trade deficit. I encourage colleagues and others to read it. His program, more than any on television these days, is talking about the danger of this trade deficit.

At any rate, as they finalize this jobs bill in conference, which is going on as I speak, they need to come back to the amendment I offered last May 5 with my colleague, Senator MIKULSKI. They need to shut down this perverse incentive in tax law, which gives benefits and encouragement and financial help to companies that move their jobs overseas.

REIMPORTATION OF PRESCRIPTION DRUGS

Let me make one other point on another subject that I think is critical. We are told we are near the end of this session. Perhaps on Friday of this week we will complete our work and then come back for a lameduck session, which happens to be a terrible idea. Perhaps, because this Congress has not done much of the right kind of work or much of the work it needs to do, we will have to have a lameduck session.

As we near the end of this session, the one relentless issue that many Members of Congress say they care about and want to do something about is the issue of the prices of prescription drugs. We pay the highest prices in the world for prescription drugs and there are far too many in this country who cannot afford them.

Senior citizens are 12 percent of our population yet they consume over one-third of the prescription drugs in America. Senior citizens have reached that point in their lives when they have a fixed income. Yet one-third of the prescription drugs are taken by our senior citizens. Why? Because they must. These are lifesaving drugs, miracle drugs. My hat is off to the pharmaceutical industry and to the researchers at the National Institutes of Health and others who have helped create these new drugs, but miracle drugs offer no miracle to those who cannot afford to take them.

I sat on a bale of straw the other day at a farm in southern North Dakota with a fellow who is 87 years old. He told me: I fought cancer for 3 years and I think I finally have beaten it. This is an 87-year-old man. I fought cancer for 3 years and I think I finally won. For those 3 years, my wife and I drove to Canada to buy the prescription drugs I needed to fight this cancer.

Why? Because the same FDA approved drug, the identical pill, is put in the same bottle, made by the same company, but is priced at a dramatically lower price in Canada.

He said: For 3 years, we went to Canada to save that money because we had to. Senior citizens should not have to go to Canada to save money on prescription drugs.

He is right about that. I would prefer that pharmacist be able to go to Canada to purchase those lower priced prescription drugs from the pharmacist in Canada, come back, and pass the savings along to the consumers in our country.

By getting rid of the artificial barriers that prevent re-importation, we would put downward pressure on prescription drug prices in this country so people would not have to go anywhere but their local drugstore to purchase prescription drugs. They could purchase them here for a fair price. But we are charged the highest prices in the world for these drugs.

We are told by the Food and Drug Administration that if we reimport prescription drugs from Canada in any organized way that there would be a safety issue. We are told by the Secretary of Health and Human Services that there may be a safety issue. We are told by the President that he thinks maybe we should look at this but there might be a safety issue.

That suggests somehow that Americans are not able to do what Europeans have done everyday for years. The Europeans have something called parallel trading. Their parallel trading programs allow someone from Germany to buy a prescription drug from Spain, someone from France to buy a prescription drug from Italy.

They don't have any safety issues in Europe. The marketplace determines the price for the drug, and the market puts downward pressure so the Europeans don't pay the highest prices in the world for prescription drugs as we do. They do what is called parallel trading, and there are no safety issues at all. European officials have testified before our committees. The safety issues simply are not there. It is a bogus issue.

We have drafted a bipartisan piece of legislation called the Pharmaceutical Market Access and Drug Safety Act. Myself, along with Senators SNOWE, MCCAIN, STABENOW, FEINGOLD, and others, we have drafted a bipartisan piece of legislation that systematically addresses the safety issues so that there cannot be any safety concerns. Our bill would allow the reimportation of prescription drugs from Canada and from other major developed countries and would put downward pressure on prescription drug prices. The House of Representatives has passed such a bill. That bill is on the calendar at the desk. The bipartisan bill which we have introduced is similar to the bill that is at the desk. Yet we are unable to get a final vote in the Senate.

We have had substantial discussion. I had a discussion with the majority leader on this subject at midnight one night earlier this year on the Senate floor. I had a hold on a nominee. I withdrew that hold because I believed we had an agreement that we were going to work toward an opportunity to have a vote on this legislation. I believed that agreement with the majority leader existed. He now indicates it was not an agreement for a vote. He indicates it was an agreement that a process would begin and that the authorizing committee would work on this. The authorizing committee worked on it, to be sure. They would have markups scheduled and markups cancelled, markups scheduled and markups cancelled. The fact is, they never were able to get a bill out of committee because they couldn't get consensus on anything. We have a consensus on the bill that is on the calendar. We have a consensus on the bipartisan bill. If there is a vote on that in the Senate, it will pass by a significant margin. We don't need another consensus. There is a consensus that already exists. What we need is a vote on the floor of the Senate.

I encourage the majority leader once again to allow us the opportunity to cast this vote. Senator MCCAIN, Senator SNOWE, myself, Senator STABENOW, Senator FEINGOLD, Senator DASCHLE, Senator KENNEDY and many others have worked very hard on this issue. In my judgment, it is a disservice to those who deserve to pay fair prices for prescription drugs not to have a vote on this bill. It is a disservice to their interests for us not to complete work on this bill during this session of the Congress.

I ask unanimous consent to print in the RECORD two editorials. One is by the Chicago Tribune and it is entitled ''Shielding the Drug Industry.'' This says essentially what I have said:

> While Congress dithers, States and cities skirt if not break the law by helping seniors and others take advantage of lower prescription-drug prices in Canada.

And the editorial talks about the desperate need for Congress to pass a law dealing with reimportation. They specifically feel that the legislation that is before the Congress would be meritorious and they talk about Peter Rost who is vice president of marketing for one of the largest drug companies who broke ranks with the drug industry in the last couple of weeks and publicly endorsed the proposal in Congress that my colleagues and I have sponsored.

Then I ask unanimous consent to print in the RECORD a New York Times editorial that is titled ''The Senate's Chance on Drug Costs.''

> If Dr. Bill Frist, the Senator majority leader, knows what's good for the body politic, he will allow a quick floor vote on the drug reimportation bill he has been bottling up for the benefit of President Bush and the pharmaceutical industry.

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

[From the Chicago Tribune, Oct. 1, 2004]

SHIELDING THE DRUG INDUSTRY

Last month Peter Rost, a vice president of marketing for Pfizer Inc., broke ranks with the drug industry and his employer by publicly endorsing a proposal in Maryland's Montgomery County to allow its employees to buy cheaper drugs from Canada. Rost disputed industry claims that reimportation would pose a public health risk. ''The real concern about safety is about people who do not take drugs because they cannot afford it,'' he said.

Rost—who made it clear that he was speaking only for himself, not Pfizer—joins a growing number of city and state officials across the country arguing for reimportation. Only a few months ago, a new law seemed inevitable. Even Health and Human Services Secretary Tommy Thompson suggested that was so. Unfortunately, ''inevitable'' may not mean any time soon.

Competint reimportation bills have been bottled up in the Senate for months. And Senate Majority Leader Bill Frist of Tennessee isn't likely to allow a debate or vote before the election. Last month he argued that with only a few weeks left in the session and other pressing issues, there wasn't enough time for a full debate.

While Congress dithers, states and cities skirt if not break the law by helping seniors and others take advantage of lower prescription-drug prices in Canada. One such program is supposed to be introduced soon in Illinois.

The lack of progress is frustrating. Last spring, at his confirmation hearings, Medicare chief Mark McClellan promised to help develop legislation to allow imports of lower-cost prescription drugs with safeguards to protect consumers. Frist said that the Senate ''will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.'' But Sen. Byron Dorgan (D–N.D.) said recently that the process had ''led to nothing.''

No wonder some politicians are so frustrated that they're openly challenging the Food and Drug Administration in announcing plans to help consumers link to pharmacies in Canada and elsewhere.

Opponents of reimportation have argued that it would open America's borders to a flood of tainted drugs, and that the FDA could not guarantee the safety or purity of such imported drugs. That argument isn't convincing. Many drugs are manufactured abroad, and the FDA inspects those factories and ensures that drugs are shipped to America without tampering. That system could be expanded, using fees paid by those who import or export the drugs.

Pfizer execs are asserting that Rost ''has no qualifications to speak on importation'' and emphasize that he is not speaking for the company. But his support for reimportation resonates in Illinois, where 67 percent of registered voters supported Gov. Rod Blagojevich's plan to help residents buy prescription drugs from Canada, Ireland and England, according to a recent Tribune/WGN–TV poll. A survey by the Kaiser Family Foundation showed about 8 in 10 Medicare recipients support allowing Americans to buy drugs from Canada if they can get a lower price. The same study showed more than 6 in 10 don't believe such a system would expose Americans to unsafe medicines from other countries.

It seems terribly clear that congressional leaders have one intention here: protecting their heavy campaign contributors in the drug industry from competition. This issue deserves a vote. The stalling has to stop.

[From the New York Times, Sept. 29, 2004]

THE SENATE'S CHANCE ON DRUG COSTS

If Dr. Bill Frist, the Senate majority leader, knows what's good for the body politic, he will allow a quick floor vote on the drug reimportation bill he has been bottling up for the benefit of President Bush and the pharmaceutical industry. A large majority—up to 75 members, by some estimates—would easily pass the bill and delight the organized older voters who have been clamoring for lower-priced Canadian drugs. American consumers are increasingly aware that their average drug prices are 67 percent higher than what Canadians pay for comparable prescriptions. Bipartisan Senate pressure is growing on Dr. Frist, along with threats of the sort of floor rebellion that saw the Republican House rise up last year to pass a drug reimportation plan over Mr. Bush's opposition.

Mr. Bush continues to express concern about potential safety risks from imported drugs while insisting that the new Medicare subsidy for prescription drugs will eventually ease the pocketbook pain of distressed retirees. Dr. Frist also continues to express concern about the need to weigh the benefits of lower prices against possible safety risks.

But this concern is addressed in the pending bipartisan bill, which mandates that the bargain drugs would come from licensed Canadian pharmacies and wholesalers registered with the federal Food and Drug Administration.

The real issue appears to be to avoid forcing Mr. Bush to choose between signing the bill and angering the drug industry, which donates mightily to G.O.P. campaigns, or vetoing it and infuriating older voters.

This page has supported the Medicare drug plan, but with the imperative that the administration work harder to restrain costs, however much the pharmaceutical lobby complains. The reimportation bill is a promising cost saver.

Mr. DORGAN. As I have indicated, there is a bipartisan group of Senators who have worked a long while on this issue. The House of Representatives passed this idea by a wide bipartisan margin. This is not a partisan issue. It is bipartisan.

My hope is that the majority leader will decide that as a matter of scheduling, we will, before we adjourn sine die, address this issue and resolve it for the benefit of the American people. There is no safety issue. Everyone knows that is a bogus issue. To continue to raise that issue suggests somehow that Americans are unable to do what the Europeans have done routinely year after year. That is, put together a system—we call it reimportation; in Europe it is called parallel trading—that is safe for consumers and that puts downward pressure on prescription drug prices.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

WAR ON TERRORISM

Mrs. HUTCHISON. Mr. President, it is my understanding that there has been use of the Senate floor in the last few minutes to discuss the Presidential race and to make statements about the situation in Iraq and our President's handling of that and our President's own war service, his service in the guard, which was honorable. I don't know everything that was said, but let me say that it is very important we take every opportunity to look at what is happening in the war on terrorism and the place that Iraq holds in the war on terrorism. Let's don't forget Afghanistan, either.

Our country was hit on 9/11, 2001. Everybody in the world knows that. It hasn't been easy to deal with a different kind of enemy, but that is what we have, a different kind of enemy. Our President has been resolute and firm in fighting this enemy every step of the way. Americans can hardly imagine that human beings would actually be able to shoot children in the back as they are running away, as happened in Russia a few weeks ago, terrorists taking over a school and children running away to go to safety and being shot in the back. Three hundred people died in that event.

People can't imagine an enemy that would cut someone's head off before a video camera and spread it out across the world. But that has happened with the kind of enemy we are now facing. Does anyone think that kind of enemy can be dealt with with kid gloves, with good manners, as we would have in a debating society? The President doesn't. The Vice President doesn't. They are standing up for our country. They are standing up for our country against an unimaginable enemy, and they are doing a great job. They are doing a great job because they feel from their hearts that we must be firm and resolute against this enemy, and we must not let anything stand in the way of protecting America and protecting our homeland.

That is why I am so proud of our President and our Vice President. They are not asking anyone else if America can defend itself.

And we are at war with terrorists who would shoot children in the back and cut innocent people's heads off for absolutely no reason whatsoever. So if we are going to use the Senate floor to be part of the campaign, I think we need to make sure the people of our country hear both sides. There are real differences. There are real differences in how we would handle the war on terrorism, what we do in Iraq. Iraq is not an easy situation. We all know that.

We know the enemy has infiltrated Iraq. They have come in through the porous borders from all over the world to try to disrupt the stability and the stabilization of Iraq. Americans have boots on the ground in Iraq. Our young men and women are fighting for our freedom in the deserts of Afghanistan and in Iraq so that we will be able to debate on the Senate floor, hold our own elections, and live in the freedom that we have come to know. I think our young men and women deserve the respect that we have a united country in this war and in this effort. This is every bit as much a fight for freedom as any war in which America has been engaged.

Our President and our Vice President put one thing, and one thing only, first: the security of the American people.

They want every child in our country to grow up with the same kind of freedom and opportunity every one of us in the Senate has had growing up. If we let terrorists curtail the way we live, we will have lost. We will have said that we are not going to answer the call of our generation to maintain the freedom and opportunity of our country, which we have been able to enjoy. That is unthinkable. Our President and our Vice President are standing firm for the protection of the American people. They are standing firm for our economy.

One of the other hits we took on 9/11/01 was the hit to our economy. The tourism industry went down, the airline industry was in trouble, and it had a ripple effect throughout our economy. But our President has remained firm in the way we would try to stabilize the stock market and get jobs back and get people back to work. He is doing it with tax cuts, so that people will have more of their own money to spend and they will put it into the economy. Guess what. That has made the difference.

The turnaround in our economy started right after the tax cuts were signed by the President. The stock market is up and jobs are coming back; 1.7 million jobs have been put on this year alone. We are almost back to where we were before 9/11.

So, Mr. President, if we are going to use the Senate floor to talk about the election that is going to happen in the next 6 weeks in this country, I think we better look at the record. The record is good. We have taken the steps that are necessary after being hit by terrorists in a way that we could never have imagined being hit on 9/11. Our homeland is more secure. Is it everything it needs to be? No. The President will tell you that. Anyone will tell you that. But it is a whole lot safer than it was on September 10, 2001.

We are taking the steps right now on the Senate floor to reform our intelligence-gathering capabilities. We are going to have the best intelligence operation in the entire world. We are already making great strides. We have made great improvements. There is much more sharing and, in fact, the increased and better intelligence has caused us to know that there is a heightened alert right now. But we are taking the steps to codify that and put it into statutory form. We are doing exactly what we ought to be doing to assure that our country is prepared to go forward, to stay the course in this war, and to win the war on terrorism. We are going to do it one step at a time, with a President who is absolutely focused on our national security.

Mr. President, I am proud of our President. I am proud of our Vice President. They are staying focused. A lot of people think this campaign has gotten pretty rough. Campaigns in America are rough. None of us like it, but no one is going to unilaterally disarm. Therefore, we are going to make sure that the truth comes out so that people can see the differences between the two candidates. There doesn't have to be any mud slung in this campaign because the differences are very great. Our President is resolute that he is going to win the war on terrorism and protect the American people, and he hopes we can fight the war on terrorism on the turf where they are rather than allowing them on our turf. That is his strategy, and it is the right one.

We have a President who is firmly committed to a domestic agenda that includes an education for every child in our country; quality health care for every person in our country, to bring more people who are insured into our health care system; to have malpractice reform so that we will be able to assure quality health care at a reasonable cost. Our President is committed to Social Security reform so that it will be there for our seniors, not just for the next 20 years, but for the next 100 years. It is going to take leadership. It is going to take leadership and vision for the next President of the United States. Our President is doing exactly the right thing in focusing on our security, on education for children, on quality health care for all of the people in our country. Our President is doing a great job. I am proud of him. I think the people of America—the more they focus on not only the accomplishments of the last 4 years, but the vision for the future—our President is talking about his vision for the next 4 years and what we will be able to do for our country that will build on the rising economy, the better national security that he has already put in place.

Mr. President, I am going to yield the floor, and I hope that we can keep this debate on the differences on the issues. I hope we will not have extraneous charges and the use of the Senate floor for extraneous charges that do not have a place in the civilized debate that I hope we will have on the floor of the Senate in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, may I inquire as to the parliamentary situation in the Senate?

The PRESIDING OFFICER. We are postcloture on S. 2485.

Mr. GRAHAM. I thank the Chair. I wish to make some remarks on an amendment that I have filed. I will not ask that that amendment be brought before the Senate this evening, but I look toward doing so at an appropriate time.

Mr. President, 3 years have passed since the attacks of September 11, 2001. Largely because of the anger and the concern and the desire to show that the lives of those 3,000 Americans who were sacrificed on that day had meaning, we are nearing passage of a meaningful intelligence reform plan. But as we commit ourselves to implementing this plan, I remain convinced that we still will not be doing all we can do, all we should do to win the war on terror and to hold our adversaries to account.

Why do I hold those views?

It is my view that we have allowed to escape at least one and possibly more make-believe allies that have and may be today supporting terrorists with financial, logistical, and even diplomatic resources. These allies are saying one thing in their public relations campaign but doing quite another in their palaces, in the halls of government when it comes to nurturing al-Qaida and other terrorist networks.

Let me give a little explanation of why I think this issue is so important. For 19 relatively young men, most of whom were strangers to each other, to be able to come into the United States without much command of the English language and almost no knowledge of American culture and practices, stay in this country for, in some cases, 18 months, to be able to refine a plan that had been developed prior to their entry, to deal with unexpected complications, such as the detaining of the 20th hijacker, and to be able to practice that plan and finally execute it with the tragic consequences of September 11 is not an easy task. Many have asked how could they have done it.

I believe, for one thing, these 19 people were more capable than we may have originally thought, and that itself is a chilling observation, because it says something about the adversary we are going to continue to be facing once we restart the war on terror.

But second, I also believe they were not here alone. In that famous August 2001 briefing which the President received at Crawford, TX, one of the items in that briefing which has, in my opinion, been inadequately observed was that the President was told that al-Qaida had a network inside the United States.

Supplementing that network, I believe the Saudis were given license to take advantage of a network that was already in existence in the United States for another purpose, primarily the purpose of surveilling countrymen who were in the United States to determine if they were fulminating any plots that might be adverse to the interests of the royal family. That network was then made available to at least 2 and maybe more, possibly all, of the 19 hijackers.

I will remind my colleagues again, as I have previously, that much of the information that makes this case is contained in the 27 pages of the final report of the House and Senate inquiry into 9/11, the 27 pages which were censored by the administration and, therefore, have never been made available to the American people. But I can say this: A California-based former employee of the Saudi Civil Aviation Authority, a then 42-year-old Saudi national named Omar al-Bayoumi, had extensive contacts with two of the Saudi national hijackers, Khalid al

Mihdhar and Nawaf al Hazmi. These two men had entered the United States in January of 2000 after having attended a summit of terrorists in Malaysia a few weeks earlier.

Bayoumi was paid $40,000 a year by a Saudi Government subcontractor, but he never showed up for work. He was what is referred to as a ghost employee. Indeed, a CIA agent described him as a spy of the Saudi Government assigned to keep track of Saudi citizens in southern California, particularly the large number of Saudi students studying at higher education institutions there.

The day that al-Bayoumi met the two hijackers at a Los Angeles restaurant, he had first attended a meeting at the Saudi consulate with a Saudi official who subsequently was denied reentry into the United States because of his alleged terrorist background.

He then, over lunch, invited the two terrorists to come from Los Angeles to San Diego where he proceeded to first allow them to live with him until they could arrange for an apartment, he cosigned their lease, paid their first month's rent, hosted a welcome party, and helped them get a variety of services, including driver's licenses and flight school applications. He introduced them to others who served as their translator and other support roles.

This is just one strand in the web of connections between hijackers and the Saudi Government. But, again, I am restricted in terms of how fulsome the details can be.

There is other evidence of Saudi complicity, especially when it comes to financing al-Qaida. In a monograph on the finances of al-Qaida prepared by the 9/11 Commission, staff investigators found government-sponsored Islamic charities had helped provide funds for Osama bin Laden. The monograph states:

> Fund-raisers and facilitators throughout Saudi Arabia and the Gulf raised money for al Qaeda from witting and unwitting donors and diverted funds from Islamic charities and mosques.

It attributed this thriving network to ''a lack of awareness and a failure to conduct oversight over institutions [which] created an environment in which such activity has flourished.''

The 9/11 Commission investigators concluded:

> It appears that the Saudis have accepted that terrorist financing is a serious issue and are making progress in addressing it. It remains to be seen whether they will (and are able to do) enough, and whether the U.S. Government will push them hard enough, to substantially eliminate al Qaeda financing by Saudi sources.

At least one other authority body is even more skeptical. The Council on Foreign Relations established a task force on terrorist financing, and representatives of the task force testified last week on the 29th of September before a hearing of the Senate Banking Committee.

Mallory Factor, vice chairman of the Independent Task Force on Terrorist Financing, said this:

> The Saudi Government has clearly allowed individual and institutional financiers of terror to operate and prosper within Saudi borders.

Let me repeat that statement:

> The Saudi government has clearly allowed individuals and institutional financiers of terror to operate and prosper within Saudi borders.

He continued:

> Saudi Arabia has enacted a new anti-money laundering law designed to impede the flow from Saudi Arabia to terrorist groups. However, significant enforcement by Saudi Arabia of several of these new laws appears to be lacking. . . .

He continued:

> Furthermore, even if these laws were fully implemented, they contain a number of exceptions and flaws which weaken their effectiveness in curbing terror financing. . . . Quite simply, Saudi Arabia continues to allow many key financiers of global terror to operate, remain free and go unpunished within Saudi borders.

Lee Wolosky, the codirector of the Council on Foreign Relations Task Force, added:

> There is no evidence . . . that since September 11, 2001, Saudi Arabia has taken public punitive actions against any individual for financing terror.

That directly contradicts the statements made by this administration that the Saudis have been cooperating and continue to deserve to be considered as allies.

Despite all of the evidence, President Bush has said nothing to suggest that he is reconsidering the assurance he offered to the American people in the Rose Garden on September 24, 2001, when he said:

> As far as the Saudi Arabians go . . . they've been nothing but cooperative. Our dialogue has been one of—as you would expect friends to be, able to discuss issues.

On Sunday, like several million Americans, I watched the Sunday interview programs and I saw a lady I admire, Dr. Condoleezza Rice, as she attempted to explain why she and other key members of this administration, aware of the fact that there was a considerable disagreement as to whether aluminum tubes which were destined for Iraq but had been intercepted, but which had been determined by the best experts in the United States, those in the Department of Energy, to not be appropriate for the construction of a centrifuge, one of the preliminary steps in the development of weaponizable material—she said any prudent policymaker would have to take the most conservative view if there was a disagreement, take the view that would best protect the American people.

I say this: If we have the kinds of comments that have come from responsible citizens who served on the 9/11 Commission, statements that have been made by a respected independent task force of the Council on Foreign Relations, and the recommendations of the joint House-Senate task force, why do we not take the same conservative position as relates to Saudi Arabia?

This is what our colleagues in this Chamber and the House said in December of 2002. Recommendation 19 of the final report of the joint inquiry stated: The intelligence community, and particularly the FBI and the CIA, should aggressively address the possibility that foreign governments are providing support to or are involved in terrorist activity targeting the United States and U.S. interests. State-sponsored terrorism substantially increases the likelihood of successful and more lethal attacks against the United States. This issue must be addressed.

If we believe that we should take the stance which is most protective of the security of the people of the United States of America, why have we taken this position of coddling passivity and deference to the Kingdom of Saudi Arabia with this record of their support of terrorism?

My lack of confidence in both Saudis and the administration, my lack of confidence in their ability to level with the American people, leads me to offer this amendment on behalf of the families of those who died on 9/11.

Several groups of families and survivors have filed lawsuits against the Saudi Government, members of the Saudi Royal Family, other Saudi entities, alleging that they were part of a conspiracy that led to the successful attacks on the United States on September 11, 2001.

The Saudi Government, in Federal court, has moved to strike not only the Royal Family, not only individuals but also to strike virtually every entity under the umbrella, that those entities are a part of the sovereign immunity in Saudi Arabia and therefore come under the umbrella of sovereign immunity from their acts.

The effect of this position is to prevent the victims' families from proceeding to the discovery portion of the trial which could yield valuable information about the Saudi Government's activities. This amendment would waive sovereign immunity protections for foreign governments involved in lawsuits related to the September 11 attacks. It would not automatically declare that the Saudi Government or any other government is responsible for the attacks or was complicit in the attacks, but it would give victims' families a chance to have their day in court. While exceptions like this are rare, this is because terrorist attacks of the magnitude of September 11 are rare.

Congress has waived sovereign immunity before. In the case of the Iran hostage-taking, sovereign immunity was waived because there was reason to suspect that the hostage-takers had received support from the Iranian Government. We decided an exception to the law was necessary in this case in order to both get to the truth and see that justice was provided for innocent American families.

I believe the family members of the victims of 9/11 deserve to have an equal opportunity to get to the truth, especially in light of the coverup our Government has engaged in and which has prevented the American people from a full understanding of the extent of that complicity.

For all we know, the network which functioned prior to 9/11 and which contributed to the ability of these 19 people who were new to the United States, woefully deficient in the English language, to be able to hide out for 18 months and then refine, practice, and execute a plan of terror, that infrastructure is still in place. This amendment would help these families and the people of the United States better understand what has happened to us in the past, what the threat might be today, and to hold those responsible and accountable for their actions.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as if in morning business for no more than 10 minutes.

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

The Senator from Idaho.

FLU VACCINE SUPPLY

Mr. CRAIG. I come to the Senate floor this afternoon to express a grave concern about today's announcement concerning a new threat to America's flu vaccine supply—and to urge that firm and decisive action is needed to meet this potential deadly threat.

First, the facts as we know them: Earlier this morning, the California-based Chiron Corporation announced that British regulators had unexpectedly imposed a 3-month suspension of operations of its Liverpool plant, citing unspecified manufacturing problems.

What does this mean? Mr. President, I believe today's announcement may prove to have worldwide and deadly consequences. This is because Chiron's Liverpool facility is today one of only two major manufacturers of flu vaccine worldwide, and it supplies approximately one-half of the total U.S. flu vaccine supply.

More specifically, if Chiron is unable to ship its vaccine this year, the U.S. will lose approximately 46 million doses of flu vaccine, just under half of the anticipated supply of about 100 million doses. Ideally, as many as 185 million doses would be needed to protect all Americans who are at risk. This gives you some idea of the parameters of the problem.

Because flu vaccine is produced seasonally and cannot easily be accelerated on short notice, and because the annual flu season typically begins in October—the month we are now in—this announcement effectively deals a body blow to U.S. preparedness as we enter this year's flu season.

As the chairman of the Senate Special Committee on Aging, I am especially concerned about the effects of this development on America's senior population, who account for over 90 percent of the approximately 36,000 American flu deaths each year.

Indeed, just last week the Aging Committee held a hearing to examine ways of improving flu preparedness and vaccination rates.

At our hearing, Chiron president and CEO testified that Chiron was on track to deliver its full complement of flu vaccine this year. According to initial accounts, today's announcement from the British Government came as an alarming surprise, both to Chiron itself and to the U.S. Food and Drug Administration, which itself had conducted reviews of Chiron's operations in recent months.

Time will tell, of course, but there is no question that today's developments have caught the world public health community off guard.

So what can be done?

First, I am very encouraged that FDA, CDC, and the NIH have moved swiftly today to convene emergency meetings of top vaccine experts to confer with their British counterparts and to seek assistance from the other major vaccine manufacturer, Aventis. I understand that Secretary Tommy Thompson has already dispatched a team to England to address this crisis.

I believe these discussions are extremely important. Of course, safety must always be our paramount consideration. Nevertheless, considering Chiron's critical role in flu vaccine production, coupled with the deadly worldwide threat that confronts us, I urge U.S. and British scientists and officials to do everything in their power to correct whatever problems might exist in time to permit shipment of at least some of Chiron's vaccine this year.

Second, I believe it is imperative that Federal authorities act swiftly to guarantee that, if there is to be a sharp drop in vaccine supplies, priority distribution go first to America's elderly and to the young children, as well as certain other especially vulnerable populations.

Third, today's alarming announcement is a wake-up call that better long-term flu preparedness is imperative. As we heard at last week's hearing, this is especially true in light of the fact that scientists now believe that a return of an especially strong pandemic strain of flu is overdue.

Scientific progress is being made in a number of promising areas, among them options for developing cell-based alternatives to today's egg-based technology. I am also encouraged that the administration in recent months has made substantial progress in its pandemic preparedness planning.

In addition, Senator EVAN BAYH and I introduced legislation earlier this year to further address some of these longer-term issues. For example, our legislation, S. 2038, would encourage an increase in vaccine production capacity by offering a tax credit for companies to invest in the construction or renovation of production facilities and for the production of new and improved vaccines. Our legislation also contains provisions to encourage greater volume of vaccine production, as well as to improve outreach and education about the importance of flu vaccination.

Finally, I want to close by noting that perhaps the single most important reason today's announcement is so potentially devastating is the simple fact that we have only two manufacturers for flu vaccine.

Stop and think about that. In a country as great and as rich as ours, with our medical science as advanced as it is, we rely only on two companies to produce this vaccine. Why? In part, for example, it is because in recent years vaccine companies, in trying to guess what the market is going to be and to produce for the market, lost well over $120 million and simply could not take those kinds of losses.

That is why Senator EVAN BAYH and I introduced legislation to try, again, to resolve this problem.

Why? Again, flu is a worldwide killer, and the need for vaccine is very clear. Yet the market has dwindled to a point that the pullout of just one company, as was announced today, devastates a worldwide supply of vaccine.

An additional factor underlying this problem, as in so many other sectors, is the issue of tort liability. The risk of lawsuit is so great today that some of these companies are simply closing their shops and walking away.

Today is not the time to discuss this particular issue in great detail, but as we move forward we need to ask ourselves, can we put the American population at risk simply because we have developed such a litigious society that everybody has to sue? When they do that, we find ourselves, as the announcement today found us, dramatically wanting for tens of millions of Americans who may this year not receive the vaccinations they need. Is that a risk that is acceptable, or is that a risk that is too high?

There is no question in my mind, and there is no question in the minds of the scientists in public health, that flu is a killer. Last year, 36,000 Americans died as a result of the flu or conditions stemming from it.

Once again, I commend the swift response of Secretary Thompson and others. I hope this grave situation can successfully be addressed. If it is, many will be saved.

We do not yet know all the facts, and again, safety is paramount, but if the American Government and the British Government can perhaps come to some degree of accord regarding acceptable and safe development and production standards between ourselves and Great Britain, thousands of Americans and others worldwide may yet receive the vaccine they need.

This is a critical issue, and it is an issue that will play out in the coming days. But whatever transpires, I believe this Congress, the CDC, the FDA,

and all who are involved in this issue must clearly prioritize vaccine distribution first for our very elderly, our very vulnerable, and our youngest citizens—those who are the greatest potential victims of this tragic illness.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. I ask unanimous consent that I be allowed to speak in morning business for 10 minutes.

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

JUST THE NUMBERS

Mr. BENNETT. Mr. President, in this election time we are hearing a great deal of discussion about the economy. We are hearing all kinds of spin being placed on the economic numbers. I don't come to the floor to try to put any spin on the numbers, but I do come to try to list the numbers. As I read the various speeches on both sides of the aisle, many times they pick out one particular portion of the economy that can be used to make a point for or against where their political position is. I want to simply outline the numbers and let those who may be watching come to their own conclusions as to whether the economy is doing well.

First number: Over the past four quarters the U.S. economy has expanded by 4.8 percent. Let's put that in perspective. In that same period, Italy has seen its economy expand by 1.2 percent; Germany 2 percent; 2.8 percent in France; 3.6 percent in Britain; and 4.2 percent in Japan. Japan is emerging from a 15-year recession, and they are thrilled about their growth at 4.2 percent. In America, we are growing at 4.8 percent. Those are the numbers.

Comparison to our own history: The U.S. growth rate over the past year has been nearly a full percentage point above the 3.9 percent growth over a comparable period when President Clinton was seeking reelection. August's 5.4 unemployment rate, for those who want to focus primarily on jobs, is well below the average of the 1970s. The average unemployment in the 1970s was 6.2; the 1980s, the average unemployment in the 1980s was 7.3; and the 1990s, the average unemployment in the 1990s was 5.75. Our current unemployment is 5.4.

The nonfarm business sector productivity growth has averaged 4.6 percent per year from the beginning of 2002 through the second quarter of this year. Unprecedented in the post-World War II period, the annualized productivity increases since early 2002 have been nearly three times the annual average rate that prevailed from 1994 to 1996. Let me repeat that. If you go back to those 2 years from 1994 to 1996, again trying to take a comparable period, 2 years before a Presidential election, the average annual rate in that period was 1.6 percent. Right now our annualized rate is three times as high.

Consumer price inflation was 3.4 percent in 2000. Since then it has averaged 2.4 percent. Inflation is under control. Inflation expectations are very well contained.

So we are having growth higher than we have had. We are having productivity higher than we have had. We are having unemployment lower than we have had. And inflation and inflation expectations are well under control.

I could go on with additional statistics. Let me cite a few very recent numbers to bring people up to date. One of the things about economics that many of us forget is that the numbers take a while to be accumulated. You will have a number released and then, when the economists go back through the data, they come back and say, no, that number was wrong. We now know that the average was either higher or lower than we had indicated.

The second quarter GDP growth of this year was originally reported at 2.8 percent below the numbers I have been talking about, causing some people to say, see, the economy has slowed down. They have now been revised. The economists have gone back, reexamined the data, and have revised that 2.8 percent upward to 3.3 percent, which gives us the average for the four quarters that I cited earlier. The economy is doing very well. Business investment increased by 12.5 percent and has now increased for five consecutive quarters. Export growth was strong and the revised second quarter trade deficit was smaller than previously reported.

Residential investment, primarily home building, is now estimated to have grown at a stellar 16.5 percent annualized rate. This is the second strongest quarterly growth in home building in 8 years. More Americans own their home now than at any time in American history. Household wealth—which represents for many people the equity in their homes—is at a record high. It hit a record high—the highest in American history—in the second quarter of 2004.

For those who talk about squeezes and those who talk about Americans who cannot save anything, Americans who cannot acquire any wealth, I suggest that you look at the facts. Again, according to the Federal Reserve data, U.S. household wealth hit a record high in the second quarter of 2004. It will be interesting to see where it goes in the third quarter.

New home sales dropped off for a while. People said maybe the recovery was slowing down. New home sales regained their vigor in August, with a 9.4-percent annualized rate of increase. Construction activity remains on a solid footing. Housing starts were up by a robust 9 percent in August over the year before. As I said, the home ownership rate in the United States is now 69 percent, the highest in American history.

It is interesting that we focus on the percentage, because the growth of the population would allow people to say, yes, it is the highest in history numerically, but a smaller percentage of Americans are living in their own homes. That is not true. It is not only the highest numerically; it is the highest percentage of Americans owning their own home and living in their own home.

These are the facts. We will let the politicians in this election spin whatever they want to spin, but I hope everybody will ultimately come back to the facts.

If I may put my interpretation on the facts which I believe are very defensible, the recovery out of the recent recession has not only taken hold, not only gained traction, it is strong, it is growing, and the next President of the United States—whomever he may be—will inherit a very strong and robust economy. He will take credit for it because it will have happened on his watch, but the groundwork for this economy, for the next economy, has been laid already. We are seeing the results now.

Economists are looking back and saying 2002 was a better year than we thought; 2003 was a stronger year in the last half; and in 2004, the economy is growing at a rate at which every other industrialized country in the world would be very grateful. America is doing economically very well. Those are the facts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, shortly, I am hopeful we will be able to clear three amendments offered by the Senator from Alaska—three pending amendments. We have reached compromises due to a lot of hard work and good faith on both parts. We have asked the Senator from Alaska if he is available to come over to the floor now, and I am hopeful we will be able to resolve those three pending amendments this evening. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3767 WITHDRAWN

Mr. LIEBERMAN. Mr. President, with the authorization of the sponsor of the amendment, Senator LAUTENBERG of New Jersey, I withdraw amendment No. 3767 among the pending amendments.

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

Mr. LIEBERMAN. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3814, AS MODIFIED

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that amendment No. 3814, previously agreed to, be modified with a change that is at the desk. This modification is technical in nature, involving only the instruction line of the amendment. It has been cleared on both sides.

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

The amendment, as modified, is as follows:

On page 4, after line 12, of the agreed to language of amendment No. 3942, insert the following:

(4) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3866

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding cloture, the Specter amendment No. 3866 be in order.

The PRESIDING OFFICER. Is there objection? The Senator from Maine.

Ms. COLLINS. Mr. President, as the Senator from Nevada is aware, this amendment is not germane to the underlying bill. We are in a postcloture situation. There are objections on both sides of the aisle to proceeding with this amendment.

Regretfully, I inform the Senator I must object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

Mr. REID. Mr. President, I am disappointed. However, I understand fully. If the Senator from Maine had the ability to make this in order, the same as last night, it would have been done. This is a complicated bill. But I felt I had to attempt to move forward on this so there will be no misunderstanding as to what took place last night on this matter.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PARDONING POSTHUMOUSLY JOHN ARTHUR ''JACK'' JOHNSON

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 447, which was submitted earlier today.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 447) expressing the sense of the Senate that the President of the United States should exercise his constitutional authority to pardon posthumously John Arthur ''Jack'' Johnson for Mr. Johnson's racially motivated 1913 conviction that diminished his historic significance and unduly tarnished his reputation.

Mr. REID. Reserving the right to object, I would like to be added as a cosponsor.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCAIN. Mr. President, I am pleased that today the Senate will approve a Senate resolution, which I introduced with my colleagues Senators HATCH and KENNEDY, calling on the President to exercise his constitutional authority to pardon posthumously the world's first African-American heavyweight champion, John Arthur ''Jack'' Johnson, for his racially motivated 1913 conviction.

For those of my colleagues who are not familiar with the plight of Jack Johnson, he is considered by many to be the most dominant athlete in boxing history. Born in the Jim Crow-era South in 1878 to parents who were former slaves, he realized his talent for the sweet science early in life. In order to make a living, Johnson traveled across the country fighting anyone willing to face him. But he was denied repeatedly on purely racial grounds a chance to fight for the world/heavyweight title. For too long, African American fighters were not seen as legitimate contenders for the championship. Fortunately, after years of perseverance, Johnson was finally granted an opportunity in 1908 to fight the then-reigning title holder, Tommy Burns. Johnson handily defeated Burns to become the first African-American heavyweight champion.

Jack Johnson's success in the ring, and sometimes indulgent lifestyle outside of it, fostered resentment among many and raised concerns that Johnson's continued dominance in the ring would somehow disrupt what was then perceived by many as a ''racial order.'' So, a search for a white boxer who could defeat Johnson began—a recruitment effort that was dubbed the search for the ''great white hope.'' That hope arrived in the person of former champion Jim Jeffries who returned from retirement to fight Johnson in 1910. But when Johnson defeated Jeffries, race riots broke out as many sought to avenge the loss.

Following the defeat of the ''great white hope,'' the Federal Government launched an investigation into the legality of Johnson's relationships with white women. The Mann Act, which was enacted in 1910, outlawed the transport of white women across State lines for the purpose of prostitution or debauchery, or for ''any other immoral purpose.'' Using the ''any other immoral purpose'' clause as a pretext, Federal law enforcement officials set out to ''get'' Johnson.

On October 18, 1912, he was arrested for transporting his white girlfriend across State lines in violation of the Act. But the charges were dropped when the woman, whose mother had originally tipped off Federal officials, refused to cooperate with authorities. She later married Johnson.

Yet Federal authorities persisted in their persecution of Johnson, persuading a former white girlfriend of Johnson's to testify that he had transported her across State lines. Her testimony resulted in Johnson's conviction in 1913, when he was sentenced to 1 year and a day in Federal prison. During Johnson's appeal, one prosecutor admitted that ''Mr. Johnson was perhaps persecuted as an individual, but that it was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks.''

Johnson fled the country to Canada, and then traveled to various European and South American countries, before losing his heavyweight championship title in Cuba in 1915. He returned to the United States in 1920, surrendered to authorities, and served nearly a year in Federal prison. Despite this obvious injustice, Johnson refused to turn his back on the country that betrayed him. During World War II, he traveled the country to promote war bonds. Johnson died in an automobile accident in 1946.

A gross injustice was done to Jack Johnson when a Federal law was misused to send him to prison. The Senate's passage of this resolution and the President's pardon of Jack Johnson would not right this injustice, but it would recognize it, and shed light on the achievements of an athlete who was forced into the shadows of bigotry and prejudice. Taking such actions would allow future generations to grasp fully what Jack Johnson accomplished against great odds and appreciate his contributions to society unencumbered by the taint of his criminal conviction.

Jack Johnson was a flawed individual who was certainly controversial. But he was also a historic American figure, whose life and accomplishments played an instrumental role in our Nation's progress toward true equality under the law. And he deserved much better than a racially motivated conviction,

which denied him of his liberty, and served to diminish his athletic, cultural, and historic significance.

The pardon of Jack Johnson would not be an act that would benefit Mr. Johnson or his heirs. Rather, his pardon would be a nominal but useful corrective of a shameful injustice that would serve as a testament of America's resolve to live up to its noble ideals of justice and equality. Instead of erasing from our memories the injustice that deprived a great athlete of his livelihood and freedom, we have an opportunity to speak as one in condemning the public intolerance and misuse of Federal authority that was perpetrated against this man.

While we know that we cannot possibly right the wrong that was done to Jack Johnson, we can take this small step toward acknowledging his mistreatment and removing the cloud that casts a shadow on his legacy.

I urge adoption of the resolution.

I will mention there is a great American named Ken Burns who may be the foremost maker of documentaries in America. Ken Burns, Mohammad Ali, and many other respected figures throughout America have formed a committee for the pardon of Jack Johnson. I hope we can get it sooner or later.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in calling for a presidential pardon for Jack Johnson, the first black heavyweight champion in boxing, who was unjustly persecuted in 1913 for being famous, wealthy, powerful—and black.

Jack Johnson was the son of a former slave. He grew up in Galveston in the era of segregation, harsh racial bigotry, and vicious lynching. But Johnson was tough and talented, and he saw a way up. He fought for money in ''battle royals,'' in which groups of black men fought until the last one standing was declared the winner. He turned professional and, at the age of 25, won the Negro heavyweight championship. It was 1903, and boxing was widely and closely followed throughout the Nation.

White fighters didn't fight blacks professionally, but Johnson's popularity grew. He was an innovative boxer and was sometimes ridiculed for his smart and relaxed style, even though it was considered a brilliant style when it was later adopted by white boxers.

With no worlds left to conquer in segregated boxing, Johnson set his sights on challenging white boxers, and sportswriters began to support his challenge. Jim Jeffries, the white heavyweight champion, retired, rather than face Johnson. The title went to Tommy Burns, and a match was finally scheduled. Johnson defeated him easily, and whites immediately began to scour the country for a ''great white hope'' to win the title. Under intense pressure, Jeffries came out of retirement to face Johnson on the Fourth of July, 1910, in a fight called the ''Battle of the Century.'' Johnson defeated him easily.

Blacks in cities and towns across the country celebrated and some were attacked and even killed. Race riots erupted in some cities. In 1912, the Justice Department tried to do what no boxer could do at the time, and knock Johnson out. The Justice Department went to vindictive lengths to punish the heavyweight champion of the world because of the color of his skin. The law they chose was the Mann Act, which had been enacted by Congress in 1910, and which made it a crime to transport a woman across state lines ''for the purpose of prostitution or debauchery,'' or for ''any other immoral purpose.''

Johnson flaunted his boxing success and defined bigotry. He had money and power at a time when the vast majority of blacks were poor and powerless. He was, athletically, the king of the hill, when blacks were regarded as physically inferior to whites. Relationships between a black man and white woman were often deemed ''immoral'' in those days, but Johnson ignored such views. ''I act in my relations with people of other races as if prejudice did not exist,'' he said.

Johnson's relationships with white women enraged whites, and the Justice Department searched his past for a suitable case and convicted him. Most of the charges were thrown out on appeal, but enough remained to sentence Johnson to one year in prison. At the time, the prosecutor said Johnson may have been persecuted ''as an individual'' but ''it was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks.'' Johnson was the embodiment of the hopes of countless blacks, and the prosecutor admitted the conviction was meant to ''send a message.'' Johnson served his one-year sentence, was shunned by the boxing community, and died in 1946.

A pardon now would also send a message—that Johnson deserves his rightful place in sports history and the Nation's history.

Civil rights is still the unfinished business in America. Sadly, generations of Americans whose names we will never know suffered through whole lifetimes of bigotry because of the racism that stained our Nation for so long. Correcting such a major symbol of injustice in the past reminds us of how much we still must do in the future.

I commend Senator MCCAIN for introducing this resolution, and I urge Congress to approve it.

Mr. MCCAIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. 447) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 447

Whereas, Jack Johnson was a flamboyant, defiant, and controversial figure in American history who challenged racial biases;

Whereas, Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas, Jack Johnson became a professional boxer and traveled throughout the United States fighting white as well as black heavyweights;

Whereas, Jack Johnson, after being denied, on purely racial grounds, the opportunity to fight two white champions was granted an opportunity in 1908 by an Australian promoter to fight the reigning white title-holder, Tommy Burns, whom Johnson defeated to become the first African American to hold the title of Heavyweight Champion of the World;

Whereas, Jack Johnson's victory prompted a search for a white boxer who could beat Johnson, a recruitment effort dubbed the search for the ''great white hope'';

Whereas, a white former champion named Jim Jeffries left retirement to fight and lose to Jack Johnson in Reno, Nevada, in 1910 in what was deemed the ''Battle of the Century'';

Whereas, rioting and aggression toward African Americans resulted from Johnson's defeat of Jeffries and led to racially-motivated murders of African Americans nationwide;

Whereas, Jack Johnson's relationship with white women compounded the resentment felt toward him by many whites;

Whereas, between 1901 and 1910, 754 African Americans were lynched, some of whom were lynched simply for being ''too familiar'' with white women;

Whereas, in 1910 the Congress passed the Mann Act, (18 U.S.C. 2421), then known as the ''White Slave Traffic Act,'' which outlawed the transportation of women in interstate or foreign commerce ''for the purpose of prostitution or debauchery, or for any other immoral purpose'';

Whereas, in October, 1912, Jack Johnson became involved with a white woman whose mother disapproved of their relationship and sought action from the United States Department of Justice, claiming that Johnson had abducted her daughter;

Whereas, Jack Johnson was arrested on October 18, 1912, by Federal marshals for transporting this woman across State lines for an ''immoral purpose'' in violation of the Mann Act, only to have the charges dropped when the woman refused to cooperate with authorities and then married the champion;

Whereas, Federal authorities persisted and summoned a white woman named Belle Schreiber who testified that Johnson had transported her across State lines for the purpose of ''prostitution and debauchery'';

Whereas, Jack Johnson was eventually convicted in 1913 of violating the Mann Act and sentenced to one year and a day in Federal prison, but fled the country to Canada and then on to various European and South American countries, before losing the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas, Jack Johnson returned to the United States in July, 1920, surrendered to authorities, served nearly a year in the Federal penitentiary at Leavenworth, Kansas, and fought subsequent boxing matches, but never regained the Heavyweight Championship title;

Whereas, Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas, Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954 Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) Jack Johnson paved the way for African American athletes to participate and succeed in racially-integrated professional sports in the United States;

(2) Jack Johnson was wronged by a racially-motivated conviction prompted by his success in the boxing ring and his relationship with white women;

(3) his criminal conviction unjustly ruined his career and destroyed his reputation; and

(4) the President of the United States should grant a pardon to Jack Johnson posthumously to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government's prosecutorial authority and in recognition of Mr. Johnson's athletic and cultural contributions to society.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate or other business before the Senate, all time be counted as postcloture time on S. 2845; provided further that at 11:30 a.m. on Wednesday, the Senate begin a series of rollcall votes on the pending amendments in the order offered.

I further ask unanimous consent that there be 2 minutes equally divided prior to each vote, with no second-degree amendments in order to the amendments prior to the votes.

I further ask unanimous consent that the voting sequence end at amendment No. 3916.

I further ask unanimous consent that it be in order for the managers, with the concurrence of the two leaders, to send a managers' amendment to the desk prior to passage.

I further ask unanimous consent that following the conclusion of those votes and the expiration of any remaining time under rule XXII, the Senate vote on any qualified amendment to be followed by third reading and a vote on passage of the bill, as amended, with no intervening action or debate.

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

Mr. FRIST. Mr. President, I ask unanimous consent that immediately following passage of S. 2845, the Senate proceed to the consideration of Calendar No. 770, S. Res. 445.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators speaking for up to 10 minutes each.

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

NOTICE OF MOTION TO SUSPEND

Mr. MCCONNELL. Mr. President, I wish to file the following amendment and give notice to the Senate that pursuant to rule 5, section 1 of the Standing Rules of the Senate, notice is hereby given of the motion to suspend, modify or amend rule 25 for the purpose of implementing the 9/11 Commissions recommendations related to congressional reorganization.

Mr. President, the world changed on September 11, 2001, and those changes have reached far and wide. Today, we in Congress must change the way we perform our critical role of intelligence and homeland security oversight.

Today, the Senate majority leader, the Senate minority leader, Senator HARRY REID, and myself will file an amendment to a Senate Resolution that takes significant strides toward strengthening our oversight of intelligence and homeland security.

We urge Members to join this discourse and offer those changes and improvements that will enhance the domestic security of the United States. We not only expect a vigorous debate but we hope for such a discourse and urge Members to help improve this initial product.

MONGOLIA AND BURMA

Mr. MCCONNELL. Mr. President, as elected representatives, we often get correspondence from people—from our respective States and elsewhere—expressing views and opinions on a whole range of issues.

Occasionally, a letter comes in that deserves to be shared with the entire Senate. I recently received such a letter from Mongolian Prime Minister Elbegdorj Tsakhia, who took power after democratic elections in that country earlier this year.

While some may not pay much attention to Mongolia—it is literally half a world away—it deserves America's thanks and praise. That country serves to remind us that the fundamental pillars upon which our democracy is constructed—individual rights, freedom of the press and religious tolerance—are not Western ideals but universal rights. As Prime Minister Elbegdorj points out, Mongolia enjoys a tradition of democracy and recognizes that it shares a responsibility to support freedom beyond its borders.

Today I want to personally thank Prime Minister Elbegdorj and the people of Mongolia for their country's contributions to the War on Terrorism in Iraq and for their steadfast support of democracy in Asia—and in Burma, in particular. Brave Mongolian soldiers serving in Iraq, and those who champion the cause of democracy closer to home, are a tribute to their country.

While I will include the text of the Prime Minister's letter in the RECORD following my remarks, I want to read one line that rings true:

> Having lived under, and fought against, the tyranny of Communism I can assure you of one thing: that no dictatorship, no military regime, no authoritarian government can stand against the collective will of a people determined to be free.

Amen, Mr. Prime Minister.

I encourage you to do all you can to further strengthen democracy in your own country, and to continue to aggressively support Daw Aung San Suu Kyi and the people of Burma in their struggle for freedom.

I ask unanimous consent to print the letter in the RECORD.

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

PRIME MINISTER OF MONGOLIA,
September 16, 2004.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On August 20, 2004 I was sworn in as Mongolia's new Prime Minister. This election has seen another peaceful transfer of political power in my country. It represents Mongolians' continuing commitment to democracy and human rights.

I have lived in the U.S. for the past several years and during that time I earned degrees at the University of Colorado and Harvard. I also served as a consultant to Radio Free Asia in Washington, D.C. During my time in the U.S., I followed your actions on promoting democracy and human rights in Asia—in particular, Burma. I, like you, believe that Aung San Suu Kyi and her National League for Democracy is the legitimate representative of the Burmese people. The military junta that is ruling Burma can only maintain their power through barbaric acts of terror to instill fear in the people.

Mongolia faces many serious economic and social challenges. After our July elections, our parliament, like your Senate, is a divided chamber. The Mongolian people have made their electoral choices and now it is up to my government to make it work. I believe the true test of any democracy is not just the institutionalization of a process and policies that protect individual liberties, freedom of speech, and religious tolerance at home. It is how those values are shared abroad. There can be no excuse made for Burma's military junta. The Burmese people had an election and chose to embrace freedom and democracy. I believe each country that shares our values must take steps to help achieve the results of the 1990 elections. I look forward to engaging in this effort.

Despite the distance that separates our countries, our shared values bring us close together. As you read this letter, U.S. and Mongolian soldiers stand shoulder-to-shoulder helping to build peace and stability in a new Iraq.

Thank you for your work to support democracy in Burma and throughout Asia. Having lived under, and fought against, the tyranny of Communism I can assure you of one thing: that no dictatorship, no military regime, no authoritarian government can stand against the collective will of a people determined to be free.

Sincerely,

ELBEGDORJ TSAKHIA.

NAFTA INJURY PANEL DECISION

Mr. CRAIG. Mr. President, I rise today to express my deep concern that the rights of U.S. lumber producers to remedy against unfairly traded imports from Canada have been improperly curtailed by a runaway NAFTA Chapter 19 dispute settlement panel.

Because of the significant impact on many of our States, today I am joined by Mr. BAUCUS, Mr. CHAMBLISS, Mrs. LINCOLN, Mr. CRAPO, Mr. SMITH, and Mr. WYDEN for a discussion about the NAFTA Injury Panel and Order of August 31, 2004.

On August 31, 2004, this already rogue panel ordered the U.S. International Trade Commission to reverse its earlier rulings that, in fact, the U.S. lumber industry is injured by imports of subsidized and dumped Canadian lumber. In doing so, the NAFTA panel clearly exceeded its authority under U.S. law.

As we all know, Chapter 19 panels reviewing U.S. trade cases are to decide issues under U.S. law just like U.S. courts, applying the same legal standards and subject to the same limitations on their jurisdiction and authority. In fact, as it is structured, NAFTA panels have less authority because they do not have the ability to issue injunctions the way federal courts do.

As many of my colleagues know, just last year the U.S. Court of Appeals for the Federal Circuit, interpreting Supreme Court precedent, stated explicitly that a Federal court cannot simply reverse an ITC decision and cannot order the ITC to change its ruling from affirmative to negative. However, this is just what the NAFTA panel did in this case—told the United States ITC to change its previous ruling. U.S. courts have long determined that if some aspect of an ITC decision is not adequately supported by the evidence cited by the ITC, the proper action by a court is to remand the case to the ITC for further substantive analysis. Yet, in the lumber case the NAFTA panel expressly told the ITC it could not further analyze the facts and issues before it, but could only issue a new decision consistent with the NAFTA panel's view that the U.S. industry is not threatened with injury. This very action is usurping due process.

In other words, the NAFTA panel has effectively tied the hands of U.S. courts and prevented U.S. Federal courts from acting. This is exactly why I voted against NAFTA when it came up for a vote years ago. Simply put, here we go again having an international body, full of individuals who disregard U.S. law, dictating to the U.S. courts how to interpret our own laws. Not on my watch. I ask the rhetorical question, how can this NAFTA ruling be consistent with the requirements of the NAFTA agreement that Chapter 19 panels are to follow U.S. law when reviewing U.S. agency decisions? This ruling, without question, is a fundamental breach of the terms of the agreement—a breach that goes to the very integrity of the NAFTA dispute settlement system itself.

The ITC, as it is required by the NAFTA law Congress passed, has complied with the NAFTA panel order to reverse its affirmative threat of injury determination. Thankfully, however, the ITC emphasized that the NAFTA panel had ''violated U.S. law and exceeded its authority as established by the NAFTA [by] failing to apply the correct standard of review and by substituting its own judgment for that of the Commission.'' The Commission further described ''the panel's decisions throughout this proceeding as overstepping its authority, violating the NAFTA, seriously departing from fundamental rules of procedure, and committing legal error.''

My confidence in the NAFTA has always been shaky at best, but today that confidence is completely eroded. The Commission's expressed views on this matter are highly telling and descriptive of the NAFTA panel's overreaching and exceeding of its authority. I therefore wish to enter in their entirety into the RECORD the ''Views of the Commission in Response to the Panel Decision and Order of August 31, 2004'' issued by the Commission on September 10, 2004.

Mr. BAUCUS. Mr. President, I share the concerns of my colleague. For many U.S. industries, the laws against unfair trade are the last line of defense. American workers and their families should be able to count on the enforcement of U.S. antidumping and countervailing duty laws to provide a level playing field, and they should be able to rely on the Congress to ensure that those laws are fully enforced. The manner in which agency decisions are affected by NAFTA panel decisions should be closely scrutinized by the Senate.

As my colleague indicated, under the terms of the NAFTA, Chapter 19 panels are supposed to apply the law just as would a U.S. court. They are supposed to be bound by U.S. court precedents in their interpretation of U.S. law. Unfortunately, it has become clear that some of these panels think they do not have to abide by these rules. Again, one of the most blatant examples of this problem involves the ongoing lumber case.

Earlier this year, the same panel that recently ordered the ITC to reverse itself had questioned some of the reasoning of the ITC in its injury decision and sent the case back to the ITC for further explanation. My understanding is that the Federal courts issue such remand orders all the time. Here, however, the panel not only told the ITC to reconsider its decision, but then gave the Commission only 7 business days in which to complete its remand determination, instead of the 60 to 90 days that a court would normally give.

In response to this order from the panel, the Commission requested additional time, and explained that to properly address the panel's concerns, the ITC would have to gather new evidence and request additional comments from the parties to the case, so that all views could be heard. This should have been an easy request for the panel to grant, because just a few months earlier the U.S. Court of Appeals for the Federal Circuit had issued an opinion stating plainly that the decision to reopen the record on remand rested exclusively with the ITC. Incredibly, the NAFTA panel ignored this binding court ruling and forbade the Commission to consider new evidence, and again demanded a new determination by the ITC in a mere 7 business days. This is another clear case of overreaching by a NAFTA panel that should not be permitted.

Continued support for free trade initiatives such as NAFTA rests upon the promise of full enforcement of U.S. laws. American industries and workers must be able to rely on the promises made to them by the Congress that unfair trade practices will not be tolerated. When NAFTA panels exceed their authority, confidence is lost not only in the dispute settlement system but in trade agreements generally. We need to inject credibility back into the NAFTA system by reforming Chapter 19.

Mr. CHAMBLISS. I wholeheartedly concur with the concerns of my colleagues regarding the far-reaching effects of NAFTA panel decisions. I am especially troubled by the fact that NAFTA panels often blatantly fail to apply the required standard of review.

NAFTA requires panels to apply the standard of review of the country imposing the duty. The panels are thus obliged to apply the same standard as would the U.S. Court of International Trade—namely, to determine whether the ITC's decision was reasonable and supported by substantial evidence on the record of the case, even if there was also evidence supporting an alternative conclusion. The courts—and NAFTA panels—are not supposed to second-guess the ITC or reweigh the evidence considered by the ITC, but simply to ensure there is a reasonable basis in the record to support the Commission's conclusions. In practice, however, NAFTA panels have often ignored this requirement and have instead substituted their judgment for that of the ITC or the Commerce Department.

This is especially problematic given that agencies review all of the evidence collected during a proceeding, have substantial experience administering the laws, and often consult with and advise Congress in the drafting of the statutes.

Unlike a court or a panel, the ITC has the resources—including industry analysts, economists, and accountants—and the expertise needed to review and analyze the often voluminous records in these proceedings. The Commission is therefore plainly better suited to make determinations based on the facts. As a result, U.S. law could not be clearer: Courts and panels are

not to second-guess an agency but are only to ensure that the agency followed the express requirements of the statute and that there is substantial evidence—''more than a scintilla''—in support of the agency's ultimate conclusion. While the U.S. courts follow this essential element of review in administrative cases, the NAFTA panels do not.

Indeed, as the recent ITC decision referenced by my colleague makes clear, in the softwood lumber injury case the NAFTA panel substituted its judgment for that of the International Trade Commission on any number of evidentiary questions. Unfortunately, the lumber panel is just the latest example of a proceeding in which NAFTA panels have reached legally untenable results completely at odds with U.S. law and NAFTA requirements. We in Congress must monitor this situation very closely. We cannot allow our domestic industries and their workers to become defenseless against unfairly traded imports due to flawed decisions by runaway panels. A better means of dispute settlement within the NAFTA must be created, and the proper standard of review requirements must be enforced.

Mrs. LINCOLN. Mr. President, there is another aspect of the recent softwood lumber NAFTA panel process that deserves our attention. As you know, NAFTA Chapter 19 is a unique form of international dispute settlement that applies to antidumping and subsidy cases involving Canada and Mexico. Normally, U.S. Government decisions to impose duties on unfairly traded goods are reviewed by the U.S. Court of International Trade, a Federal court with judges appointed by the President with the advice and consent of the Senate. For dumped and subsidized goods from Canada and Mexico, however, court review is often replaced with review by a panel of private citizens—mostly members of the bar or other private citizens who are experts in various capacities, but who are not themselves U.S. jurists.

Chapter 19 empowers these panelists to review U.S. legal decisions according to whether they are consistent with NAFTA obligations. Unlike any dispute settlement system in any other trade agreement to which the U.S. is a party, Chapter 19 also empowers these panelists to review cases according to whether they are consistent with U.S. law. NAFTA inherited this particular power from the preceding U.S.-Canada Free Trade Agreement. Unfortunately, as in the softwood case, this system has led to panel judgments that actually overturn valid U.S. legal decisions.

I find this state of affairs to be extremely troubling. In my view, Chapter 19 is clearly in need of reform, and the Senate must be prepared to act to revise this system to prevent unjust situations. If we hope to maintain confidence in, and public support for, our system of trade, then we have to repair the system when it doesn't work. The NAFTA panel in the softwood case has dealt a major blow to our faith in the system. It is time we did something about it.

Mr. CRAPO. Mr. President, I concur with my colleague that the integrity of the NAFTA panel system has been put into serious doubt as a result of the recent panel decision in the softwood lumber case. When NAFTA panels prevent appropriate enforcement of the U.S. trade laws, the public will cease supporting our participation in NAFTA. It is simply unacceptable for a NAFTA panel to dictate the outcome of an investigation to any U.S. court or agency. That is not the purpose of a NAFTA panel. Such authority was not granted by the U.S. Congress to the NAFTA, the WTO, or any other foreign organization.

Congress approved the NAFTA based on its understanding that effective trade remedies would not be eroded. Preservation of these remedies is essential to the overall process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture. Popular support for the principles of free trade and the NAFTA as a whole will be weakened if the dispute settlement system is continually misused to overturn legitimate agency decisions.

In my view, it is essential that future NAFTA panel decisions are carefully scrutinized by Congress. With respect to the seriously flawed NAFTA panel decision in the softwood lumber case, I believe the U.S. Government must pursue an Extraordinary Challenge Committee appeal in order to restore the rights of the American industry and its workers.

Mr. SMITH. Mr. President, I would like to join my colleagues in expressing concern about the Canadian lumber NAFTA panel decision. The experience in the lumber case suggests that greater safeguards may be needed to prevent abuse by rogue panels. Without such reform, I fear Canada will continue its strategy of litigation over negotiation. Indeed, the softwood lumber dispute has reached a critical phase. Since backing away from a tentative agreement reached in December 2003, the Canadian Government has pursued an even more aggressive litigation strategy in an effort to insulate its unfair practices. Most recently, the Canadian Government has urged the Commerce Department to act contrary to U.S. law and return on a retroactive basis antidumping and countervailing duties collected prior to recent Chapter 19 rulings.

In my view, it is imperative that the Commerce Department clearly and emphatically reject requests that deposits already collected be repaid as a consequent result of Chapter 19 panel decisions. U.S. law clearly follows the generally-accepted convention that international dispute settlement decisions are to be implemented prospectively only. The Commerce Department cannot repay deposits already made without express statutory authorization. And the law as passed by the Congress is clear that entries prior to any panel decisions would be ''liquidated'' in the circumstances of the lumber case at the duty rates that Commerce Department established in its original countervailing duty and antidumping duty determinations in 2002.

I find the Canadian Government's current position with respect to repayment of duties to be particularly remarkable considering the Commerce Department's treatment of this issue in the previous softwood lumber dispute. In 1994, the Commerce Department stated that the statute implementing the U.S.-Canada Free Trade Agreement did not permit it to refund deposits paid prior to the implementation date of a panel decision. Since the relevant statutory provisions under the NAFTA remain the same, the Canadian parties know that their position is wrong as a matter of U.S. law. Canadian parties could have appealed the 2002 lumber trade findings to the Court of International Trade, which might have issued an injunction to protect their ability to obtain a retroactive refund of the deposits, but they chose the NAFTA panel route knowing full well that NAFTA panels cannot issue such injunctions.

Of course, the deposits made could always be returned as part of a negotiated settlement that preserves the interests of U.S. workers and sawmills, as was done in 1994. But the Commerce Department is otherwise forbidden by law from refunding the deposits made prior to international panel rulings. I expect the Commerce Department to make this clear to Canada.

I think it is important for each of us to encourage the stakeholders to come back in good faith to negotiations to resolve these cases once and for all. I believe there will be a window of opportunity later this year and will work with all parties to encourage meaningful negotiations to find a balanced solution.

Mr. WYDEN. I, too, rise today to share concerns about the recent NAFTA panel decision. Today, the Canadian share of lumber in the U.S. market is reaching record highs. Canada's practice of dumping subsidized timber in our domestic market continues to wreak havoc on U.S. mills and jobs. My own State of Oregon has been hit especially hard, losing over 3000 jobs in the timber industry since 2002. For years now, my colleagues and I have worked with the International Trade Commission, the Department of Commerce, and the U.S. Trade Representative to help maintain mill operations and keep jobs in our country.

As my colleagues have made clear today, I believe the blatant disregard for U.S. law by the panel will further damage already suffering U.S. timber workers.

Moreover, I cannot refrain from adding, as I watch jobs in the timber industry continue to disappear at an

alarming rate, I find recent decisions by the administration to lower the duties, as a result of administrative reviews, to be particularly egregious and out of line. These decisions have exacerbated an already terrible crisis, and weakened my confidence in the administration's willingness to help our timber workers.

Simply put, I believe it is time to move toward a fix for a system that currently appears to be broken.

STATEMENT OF INTENTION ON S. 2796

Mr. CRAIG. Mr. President, as our colleagues know, Senator DURBIN and I have introduced S. 2796, pertaining to the legal treatment of certification marks, collective marks, and service marks.

Federal law protects all four kinds of marks equally. Specifically, 15 U.S.C. §1503 and 15 U.S.C. §1504 provide that service marks, collective marks, and certification marks ''shall be entitled to the protection provided'' to trademarks, except where Congress provides otherwise by statute. However, the clarity of the Federal laws on this point has been confused by a recent decision of the Second Circuit Court of Appeals in the case of Idaho Potato Commission v. M&M Produce Farm and Sales. That decision interpreted the Lanham Act as requiring that certification marks should be treated differently from trademarks with respect to ''no challenge'' provisions.

We introduced S. 2796 to underscore the policy that Congress clearly intended in the first place. I ask the distinguished Senator from Illinois, is that not the case?

Mr. DURBIN. Mr. President, the Senator from Idaho is correct. Let me say to all our colleagues, this bill does not change current law. Our purpose in drafting S. 2796 was to make it clear that, in our view, the Second Circuit reached an incorrect decision in its interpretation of the Lanham Act. S. 2796 would simply restate the original intent of Congress when we enacted the Lanham Act, and indicate our support of the view that these marks are to be given equal legal treatment by the courts, not the anomalous reading that the Second Circuit gave to it in the Idaho Potato Commission decision.

Mr. CRAIG. I thank the Senator for his clarification and hope all our colleagues will join us in this effort to protect important public policy interests.

Mrs. LINCOLN. Mr. President, I thank the chairman for bringing up for consideration legislation providing multiyear reauthorization of the Economic Development Administration. EDA provides critical resources to communities experiencing significant economic distress and dislocation. The partnership between the planning and development districts in my State of Arkansas and the EDA has been a successful one. It is my hope that this partnership will continue to provide the flexibility that is needed to respond to constantly changing economic conditions.

Mr. BAUCUS. It is my understanding that this legislation preserves current EDA practices and administration of the Planning Partners Program for economic development districts, as currently authorized under Public Works and Economic Development Act of 1965. This is a critical program providing important continual professional and technical assistance to rural and distressed communities to assist in developing economic strategies and implementing infrastructure improvements. It is essential that the legislation maintain this program consistent with current authorization, practices and policies.

Mr. INHOFE. Mr. President, that is correct. The EDA planning program is an important program which provides technical assistance to communities to develop and implement comprehensive economic development strategies. As a matter of fact this bill will provide an historic increase in funding for this important program and will give planning partners the additional resources to address local needs and improve the delivery of federal economic development efforts.

Mrs. LINCOLN. I thank the chairman for his strong leadership and attention to this important matter.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 27, 2000, Christopher Weninger, who is not gay, was walking home from a party when three men approached him and one asked him for a cigarette. As Weninger handed the man a cigarette, another man punched him in the face and called him ''queer.'' Weninger suffered a broken nose and eye socket. Police investigated the beating as a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NINETY YEARS OF MUSICAL SUCCESS

Mr. LEAHY. Mr. President, I am proud to salute the American Society of Composers, Authors and Publishers, better known as ASCAP, on its anniversary of 90 years of successful representation of America's songwriters and music publishers.

ASCAP formally began when a group of noted songwriters and their supporters gathered at the Hotel Claridge in New York City on February 13, 1914, at a monumental event that would forever change music history. These visionaries, whose members included some of that era's most active and talented songwriters, such as Irving Berlin, James Weldon Johnson, Jerome Kern and John Philip Sousa, began a tradition of outstanding public advocacy on behalf of songwriters that continues to this very day.

Soon after its founding, a prominent member of ASCAP, Victor Herbert, brought a lawsuit against Shanley's Restaurant that established the legal basis for songwriters to protect their ''performing right'' in the music they created. In a legal battle that took 2 years to reach the U.S. Supreme Court, ASCAP finally prevailed in a unanimous opinion written by Justice Oliver Wendell Holmes. Once their legal authority to protect the musical performing right was secure, ASCAP provided its owner-members with several ways to be compensated for the performances of their copyrighted works.

In advancing its members' interests, ASCAP has traditionally welcomed the marketing of new technologies as opportunities to expand the reach of their musical entertainment to new audiences. With the advent of radio, ASCAP began an interdependent relationship that remains one of its most important sources of revenue to this very day. Today, under the leadership of its distinguished chairman and award winning songwriter, Marilyn Bergman, ASCAP licenses over 11,500 local commercial radio stations and 2,000 non-commercial radio stations and ASCAP music is a dominant entertainment feature of our airwaves.

With the Internet explosion, ASCAP responded with its own technological innovations. It fielded ACE, the first interactive online song database, and EZ-Seeker software for tracking Internet performances. Most recently, it has developed Mediaguide which is probably the world's most comprehensive and accurate broadcast tracking system. Thus, creative innovation and vigilance on behalf of its members have been an ASCAP hallmark since its formation.

While ASCAP has had a deep involvement with the innovative telecommunications technologies and the marvels they have added to our lives, its institutional essence is its people. We have all been admirers of many of the more renowned ASCAP members who now number in the many hundreds over the years. They include such extraordinary talents as: Billy Joel, Hal David, Cy Coleman, Garth Brooks, Irving Berlin, Prince, Lyle Lovett, Henry

Mancini, Marvin Hamlisch, Louis Armstrong, Arturo Sandoval, Duke Ellington, Madonna, Jimmy Webb, Cole Porter, and, or course, the late Jerry Garcia and his bandmates in the Grateful Dead.

However, as a national organization with international impact ASCAP actually represents an additional 185,000 individual songwriter and music publisher members, who are less well known. They are the critical mass of individual talents that extend into every city, town and hamlet in our country.

Its member-owners and the officers and employees who support them are all a part of the traditional ASCAP family. And they are especially deserving of the congratulations we extend on this auspicious event. In addition, those millions of us who appreciate and enjoy the fruits of their creators' talents have become a part of ASCAP's vast extended family of enthusiasts.

So I am wishing a very happy ninetieth birthday anniversary to ASCAP's members, officers, and employees on behalf of its huge extended family for its years of music success in America and around the world.

GRANT DOLLARS AT EPA

Mr. INHOFE. Mr. President, pursuant to my remarks of October 4 on the management of Federal grant dollars at the U.S. Environmental Protection Agency, I ask unanimous consent that the document entitled ''Grants Management at the Environmental Protection Agency—A New Culture Required to Cure a History of Problems'' be printed in the RECORD.

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

GRANTS MANAGEMENT AT THE ENVIRONMENTAL PROTECTION AGENCY

A NEW CULTURE REQUIRED TO CURE A HISTORY OF PROBLEMS

On March 3, 2004, the U.S. Senate Environment and Public Works Committee held an oversight hearing into grants management at the Environmental Protection Agency (EPA). Testimony offered at the hearing referenced the need for a cultural shift within EPA necessary for new and effective grants management and oversight within EPA. These remarks are compiled from testimony from that hearing and information derived from subsequent oversight conducted by Environment and Public Works Committee (EPW) Majority Staff following that hearing.

EPA GRANTS MANAGEMENT

Each year, the EPA awards over half of its annual budget, totaling over $4 billion, in grants. This amounts to between seven to eight thousand grants or grant actions taken each year. EPA awards both discretionary and non-discretionary grants to recipients such as state, local, and tribal governments, educational institutions, non-profit organizations, foreign recipients, and individuals among other types of recipients. The U.S. General Accounting Office (GAO) completed a comprehensive report on EPA grant management which it issued in August 2003, compiling ninety-three GAO and EPA Inspector General reports, 1,232 reviews of records of awarded grants ending in fiscal year 2002, and interviews with EPA grant officials. According to the GAO report, the majority of EPA grant awards are non-discretionary grants awarded to government entities to fund infrastructure and the implementation of federal and state environmental programs. These grant funds are awarded according to statutory or regulatory formulas to the receiving governmental entities. The GAO reported that in fiscal year 2002, the EPA awarded nearly $3.5 billion in non-discretionary grants. The remaining approximately $700 million in fiscal year 2002 was awarded in discretionary grants in which EPA officials have the discretion to determine the grant amounts and recipients. Primarily, EPA awards discretionary grants to non-profit organizations, universities, and governmental entities.

EPA grants are awarded and managed both through EPA headquarters and through the ten regional EPA offices. The EPA Office of Administration and Resources Management's Office of Grants and Debarment within agency headquarters develops agency policy for grants management. Overall the program offices within EPA headquarters and the regional offices employ 109 grants specialists responsible for financial oversight of grant awards and over 1,800 project officers responsible for providing technical and programmatic oversight of grant recipients and to monitor the progress of individual grants.

EPA GRANTS MANAGEMENT HISTORY

The EPA Inspector General (OIG), the Office of Management and Budget (OMB), and the GAO have consistently identified deficiencies in EPA grant management in numerous audits and reports. The EPA has consistently identified grants management as either an agency or material weakness in recent annual Federal Managers Financial Integrity Act reports. As recently as September 2003, the OIG again recommended that the EPA again reflect that grants management is a ''material weakness.''

In its August 2003 comprehensive report on grants management, the GAO provided a condensed history of grants management within the EPA. As described in the report, the OIG first recommended in 1995 and subsequently provided congressional testimony in July 1996 that EPA demonstrated a significant weakness in grants management. This resulted in EPA identifying grants management as a ''material weakness'' in its 1996 Integrity Act report. In response, the EPA instituted new policies for monitoring grant recipients, providing grants training for project officers, and reviewing grants management effectiveness. Although EPA reported in its 1999 Integrity Act report that weaknesses in grants management had been corrected, the OIG again provided congressional testimony in November 1999 where it disclosed that OIG audits revealed management problems persisted despite new EPA policies. The EPA continued to designate grants management as an ''agency weakness'' in its 2000 Integrity Act report. In 2002, the OIG and the OMB recommended that EPA designate grants management as a ''material weakness'' within the agency. Additionally, in its August 2003 report, the GAO stated that EPA continues to encounter the problems in the following areas: (1.) selecting the most qualified applicants, (2.) effectively overseeing grantees, (3.) measuring the environmental results of grants, and (4.) effectively managing grants staff and resources. The U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment held a series of hearings in June 2003, October 2003, and July 2004 concerning the continued deficiencies in EPA grants management based in large part on the GAO findings.

In the President's 2004 Budget submission, the OMB identified four EPA grant programs in which it reported EPA could not adequately measure the effectiveness of those programs. Additionally, in the President's 2005 Budget submission, the OMB evaluated a total of twenty EPA programs including ten grant-based programs. Again, the OMB reported that EPA exhibits weakness in measuring the effectiveness of its grants programs.

On March 3, 2004, the Senate Environment and Pubic Works Committee held its first oversight hearing into grants management at the EPA. With such a troubling history in EPA grants management, the testimony offered at the hearing led Chairman James Inhofe to characterize the previous 10 years of grant management at EPA in the following manner:

''[F]or the last ten years, the story of grants management is seemingly a revolving door of the EPA IG audits, GAO reports, Congressional hearings, and new EPA policies in response. Even with this constant cycle of criticism, hearings, and new policies, the GAO reported later last year that the EPA continues to demonstrate the same persistent problems in grants management. These problems include a general lack of oversight of the grantees, a lack of oversight of the Agency personnel, a lack of any measurement of environmental results, and a lack of competition in awarding grants. It is imperative that Agency personnel are accountable for monitoring grants—that measurable environmental results are clearly demonstrated.''

NEW EPA RESPONSES

In September 2002, the EPA issued a new grant award competition policy which focused on requiring competition in grant awards over $75,000 with certain exceptions and created the position of grant competition advocate to enforce the policy and recommend changes. Additionally, the GAO reports that in 1998, 1999, and in February 2002, the EPA has issued oversight policies designed to increase grant baseline monitoring, increase in-depth reviews, create annual monitoring plans, and create a grantee compliance database.

In April 2003, the EPA issued its first five-year grants management plan. This plan incorporates the new grants competition and oversight policies establishing the following principal Objectives and Activities for grants management:

Enhance the skills of EPA personnel involved in grants management; promote competition in the award of grants; leverage technology to improve program performance; strengthen EPA oversight of grants; support identifying and achieving environmental outcomes.

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE OVERSIGHT

At the March 3, 2004, Senate Environment and Public Works Committee oversight hearing into grants management at the EPA, Chairman Inhofe stated:

''I want to announce to all of you today that this Committee is going to take this oversight responsibility seriously in regards to grants management. . . . I am going to make a personal commitment that it is going to change this time. . . . We are going to have accountability and the revolving door will stop.''

The Committee heard testimony from the OIG, EPA Office of Administration and Resources Management, GAO, and a representative from Taxpayers for Common Sense. GAO and OIG reiterated the much of the same themes that have characterized their consistent criticisms of grant management at

the EPA. The GAO testified to: a lack of oversight of grantees and EPA personnel, a lack of competition in discretionary grants, and a lack of measurable environmental outcomes.

The OIG testified to: no link between funded projects and EPA mission, no assessment of probability of success, no determination of the reasonableness of the costs of the grant, no measurable environmental outcomes, and no deliverable in grant work-plans.

A representative for Taxpayers for Common Sense echoed similar criticisms offered by the OIG and GAO and, while acknowledging EPA's new focus on improving grants management, testified that EPA needs to improve: EPA personnel commitment to competition in grants selection, grantee oversight, ensuring grants are consistent with Agency goals, and EPA staff accountability.

The EPA focused its testimony on the new grants management plan and accomplishments under that plan detailing its five main goals and evidence of its initial success. The EPA testified to: new certification of grants project officers, increased competition especially among non-profit grantees, deployment of a new Intergrated Contracts Management System automating grants mangement monitoring, and increased minimal monitoring standards for all grants.

The hearing produced the following general findings: EPA discretionary grants need a system that requires wide competition for the available funds and sufficient notice of the funding opportunities that may be available; EPA discretionary and non-discretionary grants need to demonstrate and quantify measurable environmental results; and EPA administration and project officers need to ensure that new policies to more closely monitor grants, ensure measurable environmental results, and ensure wide solicitation and competition among grants, among other goals, and accomplished.

In addition, the hearing produced the specific finding that discretionary grants in particular are often the most problematic due to limited oversight from the EPA. Testimony offered by the GAO revealed that oversight through such safeguards as the Single Audit Act to ensure that discretionary grantee expenditures are allowable costs are generally not applicable to discretionary grants given the grant comparatively low dollar amounts. Responding to questions from Chairman Inhofe, GAO representative John Stephenson testified to the following:

''Senator Inhofe. Would [discretionary grants] be the most difficult to monitor?

Mr. Stephenson. I would think so. The non-discretionary grants go by formula to the States based on the need. There is a little more specificity in place as to how you oversee that category of grants. So I would agree that the discretionary grants are probably more problematic.''

The OIG offered corresponding answers to similar questions from Senator Inhofe testifying to the following:

''Senator Inhofe. You are testifying that the EPA mismanagement of only discretionary grants costs the taxpayers hundred of million of dollars each year?

Ms. Heist. Of predominately discretionary funds, yes.

Senator Inhofe. Why do you focus on discretionary recipients in particular?

Ms. Heist. In the past we found the most problem was with discretionary grants. We found problems with, as has been mentioned here today, competition. We found Agency managers continued to use the same grantees year-after-year and there has not been a lot of competition. Predominately, that is where we found the problems, so we continue to focus in that area.''

In fact, the OIG supplemented her testimony with a March 1, 2004, audit of a discretionary grant recipient non-profit organization that received a total of $4,714,638 in five selected grants from 1996 to 2004. The OIG's audit concluded with the following findings:

''Therefore, although EPA funds were awarded to a 501(c)(3) organization, in actuality, a 501(c)(4) lobbying organization performed the work and ultimately received the funds. This arrangement clearly violates the Lobbying Disclosure Act prohibition on a 501(c)(4) organization which engages in lobbying from receiving Federal funds.

In summary, the [Consumer Federation of America], a 501(c)(4) organization: (1) performed direct lobbying of Congress, and (2) received Federal funds contrary to the Lobbying Disclosure Act. Consequently, all of the costs claimed and paid under the agreements are statutorily unallowable.''

The March 1, 2004 OIG audit subsequently concluded among other findings, ''EPA recover all funds paid to the non-profit recipient'' and ''EPA suspend work under current grants or cooperative agreements not covered by the audit and make no new awards until the recipient can demonstrate that its financial management practices and controls over Federal funds comply with all regulatory requirements.''

However, lack of oversight in grants to non-profit organizations is not entirely new information. The GAO reported in 2001 that EPA exhibited weaknesses specifically in non-profit grantee oversight. In its April 2001 report that GAO specifically evaluated EPA's oversight of non-profit grantee costs. The GAO concluded, ''EPA's post-award grant management policy provides minimal assurance that unallowable costs for non-profit grantees will be identified.'' In its August 2003 report, the GO again reported it found some of the largest number of problems in discretionary grants to non-profit organizations. In fact, the GAO reported that of the grants it sampled for its report, EPA took some of the most significant remedial actions to problems within the individual grants against non-profit organizations.

Testimony received during the hearing also confirmed that EPA has continued to award discretionary grants to non-profit and other recipients often without preparing solicitations and without competition with other potential applicants. In its August 2003 EPA grants report, the GAO reported the following:

''The Federal Grant and Cooperative Agreement Act of 1977 encourages agencies to use competition in awarding grants. To encourage competition, EPA issued a grants competition policy in 1995. However, EPA's policy did not result in meaningful competition throughout the agency, according to EPA officials. Furthermore, EPA's own internal management reviews and a 2001 Inspector General report found that EPA has not always encouraged competition. Finally, EPA has not always engaged in widespread solicitation when it could be beneficial to do so. Widespread solicitation would provide greater assurance that EPA receives proposals from a variety of eligible and highly qualified applicants who otherwise may not have known about grant opportunities. According to a 2001 EPA Inspector General report, program officials indicated that widespread solicitation was not necessary because 'word gets out' to eligible applicants. Applicants often sent their proposals directly to these program officials, who funded them using 'uniquely qualified' as the justification for a noncompetitive award. This procedure created the appearance of preferential treatment by not offering the same opportunities to all potential applicants. In addition, the agency provided incomplete or inconsistent public information on its grant programs in the Catalog of Federal Domestic Assistance. Therefore, potential applicants may not have been adequately informed of funding opportunities.''

In fact, the OIG reported in May 2001 that the lack of competition and lack of solicitation in discretionary grants led to the appearance of preferential treatment in awarding grants and an uncertainty that grants were being awarded to the most meritorious and cost-effective projects:

''Without widespread solicitation [of available grants], EPA is not only limiting potential applicants, but is also creating the appearance of preferential treatment. Furthermore, during our discussions with EPA program officials we found implications of preferential treatment in the selection of grantees.''

During the hearing, EPA acknowledged neglecting competition and giving the appearance of favoritism in awarding grants as EPA responded to the following question asked by Senator Jeffords:

''Mr. O'Connor. Senator Jeffords, with respect to the competition as was noted, for years and years, our project officers were accustomed to just selecting their grantee which led to at least the appearance that we had favorites and that we were not necessarily going out there sure that we were getting the best value for the Government. That policy, quite frankly, did not go over very well initially, with our 1,800 project officers because it does require quite a bit of additional work. This was something that they had to adjust to. Frankly, we set a goal of competing, I believe it was 30 percent of the covered grants in our first year. I was very pleased with achieving the 75 percent. But that is one of a number of major mindsets that we are trying to change, and will change, over the next couple of years in how we manage our grants.''

Chairman Inhofe concluded the hearing with a closing statement acknowledging that all the witnesses could agree that discretionary grants oversight may be particularly problematic. Upon the conclusion of the hearing, Chairman Inhofe began a series of information requests to EPA. Chairman Inhofe issued the first request at the close of the March 2004 hearing. The request included a listing of all discretionary grant recipients in fiscal year 2003, the amount of the recipient, and the type of recipient for each grant award. It also requested the amounts in grants those recipients had received for the two previous fiscal years.

SUBSEQUENT OVERSIGHT

Pursuant to Environment and Public Works Committee oversight responsibility, Chairman Inhofe has submitted subsequent information requests which have included requesting project officer grant files on discretionary grant recipients and interviews with the EPA project and approving officers for discretionary grants. In each information request, EPA has fully responded, making grant files and personnel available.

Additionally, one of the first accomplishments from the Committee's oversight has been a change in availability of information on grants on the EPA Web site. At the March 2004 hearing Chairman Inhofe required, ''What would be wrong with putting all [grant awards] on a Web site where the public and anyone interested would have access to them?''

Later in the hearing, Chairman Inhofe reiterated his point of transparency in grant awarding stating, ''I like the idea of doing something, of opening the doors, and not just having a Web site where you show the various competitions coming up, but also where you show the grants that are issued. . . . I look forward to that.''

EPA has responded by reorganizing its Web site to provide a direct link to the EPA grants from its homepage and reorganized its Office of Grants and Debarment page to clearly list links concerning EPA grants. However, most importantly, EPA has created a new site of the most comprehensive information ever provided on individual grants. This new page contains information such as the awarding office, total amount of the grant, purpose of the grant, and awarding and monitoring personnel at EPA. This new page allows users to search all awarded grants by description, type of recipient, and by quarter or fiscal year all within seven days of the grant award. Additionally, this page is only an interim site as the EPA plans to develop a ''Grants Datamart'' of new publicly accessible information through its Web site by early 2005.

Although more publicly available information on available grants, new competition for those discretionary grants and full disclosure of awarded grants are a promising beginning to reform of EPA grants management, individual EPA program offices must enforce these new policies with necessary oversight of EPA personnel and EPA grantees. However, with comparatively low individual dollar amounts, discretionary grants to non-profit organizations in particular may receive the least oversight compared to recipients of larger dollar amount grants. As referenced in previous GAO reports and corroborated in the OIG recent audit of a non-profit grant recipient, discretionary grants to non-profit recipients have exhibited some of the highest amount of problems and have required the most significant remedial actions taken by the EPA.

BIG BUSINESS ENVIRONMENTALISM

In spring 2001, the Sacramento Bee began a series of articles on the operations of the national environmental groups and the current actions of the modern environmental movement. Those articles began characterizing the today's environmental groups in the following manner:

''[T]oday's groups prosper while the land does not. Competition for money and members is keen. Litigation is blood sport. Crisis, real or not, is a commodity. And slogans and sound bites masquerade as scientific fact.''

The series continued by identifying the twenty environmental organizations reporting the largest resources, each an Internal Revenue Service (IRS) registered non-profit organization, and criticizing today's environmental movement for its largesse. The series highlighted such issues and arguments as: the salaries paid to environmental group executives, the millions of dollars in assets, or billions in some cases, of environmental groups, the unprecedented focus on fundraising, the marketing and advertising on agenda-based science, the increasingly litigious business of today's environmental groups, and the subsidizing of environmental groups with federal tax dollars.

Continuing on the theme of environmental groups being subsidized by federal taxpayers, that same publication published an additional article in October 2001, specifically highlighting the issue of federal tax dollars going to environmental groups regularly engaged in lobbying and litigating against the federal government, and how that, according to federal audits, in some cases those tax dollars have been misused. Interestingly, the article adds,

''Just how much public money flows to environmental groups has never been calculated, partly because it springs from so many sources. . . . But no government agency charts the total spending, identifies trends, or assesses what taxpayers are getting for their money.''

The Washington Post published a series of articles beginning May 2003 focusing on a particular non-profit environmental group, The Nature Conservancy, branding the organization ''Big Green'' for its status as the nation's eighth largest non-profit with assets of $3 billion. The series criticized The Nature Conservancy, a regular EPA discretionary grant recipient, for its wide-ranging business interests including drilling operations, product marketing activities ranging from beef to neckties to a breakfast cereal to toilet cleaners, and million-dollar land deals to organization board members and supporters that has gained The Nature Conservancy a U.S. Senate Finance Committee investigation and subsequent audit by the IRS.

Earlier this year, FrontPage Magazine published a similarly critical article of environmental non-profit groups titled ''Environmental Activism Is In Fact Big Business,'' reporting that today's more than 3,000 environmental non-profit organizations collect more than $8.5 billion annually and that most individually collect more than $1 million each year.

Not all environmental organizations regularly receive EPA grants or receive EPA grants at all. However, some environmental groups receive millions of dollars in private contributions each year and receive hundreds of thousands of dollars in EPA grants each year as well. Additionally, those same environmental groups are closely linked with affiliate organizations which are politically involved or are closely associated with other politically involved environmental organizations.

SELECTED EPA DISCRETION NON-PROFIT GRANTEES

The following organizations are IRS registered 503(c)(3) tax exempt non-profit entities that have regularly received discretionary grant funding from the EPA. Each organization has received varying amounts of EPA discretionary grants. Each organization is also affiliated with an IRS registered 501(c)(4) or 527 political organization or is otherwise involved in political activities. Unless otherwise specified, the EPA reports that until it formally adopted its grants competition policy in 2003, although it encouraged competition, each grant was likely awarded without solicitation or competition with other potential applicants.

Natural Resources Defense Council

The Natural Resources Defense Council (NRDC) states that its purpose is to ''safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends.'' The NRDC is represented by three organizations. These organizations are the NRDC, Inc., a 501(c)(3) organization; the NRDC Action Fund, a 501(c)(4) organization; and the Environmental Accountability Fund, a section 527 political organization.

The NRDC is consistently critical of the Bush Administration's environmental record and devotes a portion of its own Web site to the ''Bush Record'' which it characterizes in the following manner: ''This administration, in catering to industries that put America's health and natural heritage at risk, threatens to do more damage to our environmental protections than any other in U.S. history.'' In fact, this organization is particularly politically involved with a history of spending millions of dollars in previous election cycles. The NRDC is also involved in this year's Presidential race joining with other organizations airing television and radio advertisements against President Bush. The NRDC's section 527 political organization, the Environmental Accountability Fund, last reports to have raised nearly $1 million in the 2004 election cycle, at the time of this report. The NRDC 501(c)(3) organization is also nationally politically involved joining earlier this year with Moveon.org, another section 527 political organization, running advertisements, such as one featured earlier this year in the New York Times, accusing the Bush Administration of weakening regulations on drinking water and air quality while at the same time soliciting contributions for the NRDC 501(c)(3) affiliate.

The NRDC, Inc. organization has reported consistent end of the year annual net assets of over $70 million for the previous three years, with over $80 million of end of the year net assets reports in its tax filing of the year ending 2003. Additionally, the NRDC, Inc. reports receiving increasing amounts of direct public contributions totaling from $32.6 million in 1999 to over $55 million in 2003.

The NRDC, Inc. organization also reports spending an increasing amount on direct grassroots lobbying, from $264,253 in its filing for the year ending 1999 to $861,524 in its filing for the year ending 2003 with a total of nearly $1 million in total lobbying expenditures in 2002 alone. NRDC Lobbying Disclosure Act Reports over the same 1999–2003 period disclose NRDC, Inc. made these expenditures lobbying Congress and the Administration, including Department of Energy, the Department of the Interior and the EPA.

The NRDC, Inc. organization reported receiving over half a million dollars annually in government grants in its IRS filings for the reporting periods ending 1999 through 2003. Specifically, the NRDC, Inc. organization reports it received $850,903 in government grants in the period ending 1999, $759,596 for 2000, $679,319 for 2001, $630,910 for 2002, and $608,099 for 2003. The EPA reports that NRDC, Inc. organization has received nearly $6.5 million in twenty-three discretionary grants since 1993. EPA also reports that these individual grants ranged in amounts from $7,500 to nearly $2 million during this period. The EPA acknowledges that likely all these grants were awarded without competition with any other applicant. The EPW Majority Staff requested interviews of EPA approving and project officers for selected grants over $200,000 each. The purposes for some grants to NRDC, Inc., were wide ranging. For instance, EPA reported that some of the stated purposes for grants awarded to NRDC, Inc., have included development of energy efficient technologies, strengthening the case for smart growth, a NRDC and Ad Council clean water campaign, and promoting energy efficiency in Russian buildings. In some instances, approving officers and project officers for those grants have since retired from the EPA. However, EPW Majority Staff interviewed EPA approving and project officers for one ongoing grant awarded by the Office of Air and Radiation beginning in January 2002 through December 2004 for a total of $1,198,993.00. The grant's stated project title and description are as follows: ''Development or Long-Term Adoption of Energy-Efficient Products and Services, To work within the energy efficiency and manufacturing community toward long term market transformation of energy-efficient technologies and practices.'' EPA officials stated that the grant was awarded without solicitation or competition with other applicants, and EPA awarded the grant pursuant to a proposal NRDC, Inc. submitted to the EPA. One EPA official reported that although this particular grant proposal was unsolicited, it was subject to a peer review. However, upon further questioning EPW Majority Staff learned that the peer review consisted of the review of one other EPA official within the Climate Protection Partnerships Division of the Office of Air and Radiation. EPA officials reported that this grant received some form of review

from several levels within the Climate Protection Division from review of the technical merits of the proposal by the project officers through approval by the division director. EPW Majority Staff interviewed the approving officer and two project officers for this grant, and all reported receiving EPA grant training and receiving periodic recertification. Each interviewed personnel has been employed with the EPA for various tenures from two years to over twenty years. EPA project officers reported that monitoring for this grant consists of periodic contact by the project officer and the requirement of quarterly reports from NRDC, Inc. on its progress on the grant. All EPA officials interviewed were aware of NRDC's regular litigation against the federal government, and some were otherwise aware of NRDC's political activity and criticisms of the Bush Administration's environmental policies.

Children's Environmental Health Network

The Children's Environmental Health Network (CEHN) describes itself as a ''national multi-disciplinary organization whose mission is to protect the fetus and the child from environmental health hazards and promote a healthy environment.'' CEHN has been a 501(c)(3) tax exempt organization since 2001 and reported for the filing period ending 2000,end of the year net assets of $25,324.00. However, the CEHN also reports receiving a total of $545,626 in direct contributions in addition to $136,729.00 in government grants.

Since CEHN's beginnings in 2001, the EPA reports it has awarded four grants to CEHN in amounts ranging from a $2,600 to an ongoing grant totaling $332,304.00 for the grant term of August 2002 to July 2005. As of this report, EPA has awarded nearly $400,000 in grants to the CEHN. All EPA approving and project officers for each of these grants are still employed at the EPA, the EPW Majority Staff requested interviews with each official/EPA officials confirmed that the agency awarded each grant without solicitation and without competition with any other potential applicant.

The first of the awards was a $10,000 grant awarded from EPA Office of International Affairs to CEHN to distribute information from the Global Forum for Action, a conference sponsored by CEHN. EPA officials, however, disclosed that the original proposal from CEHN requested $70,000 to pay for a large part of the Global Form for Action conference that had already concluded prior to CEHN's submission of its grant proposal. EPA, however, agreed to provide $10,000 for dissemination of information from the conference. The second of the awards was a $43,615 grant awarded from EPA headquarters for the purpose of developing a plan for the expansion of the use of the Internet to increase information regarding environmental health threats to children. EPA officials monitored the grant by requiring quarterly progress reports. The result of the grant was a report CEHN prepared on its meetings with Internet providers and medical associations. EPA officials, however, reported that a Web site disseminating information on children's health has not been developed subsequent to this report. Interestingly, however, during this same period and thereafter, the CEHN has published its own Children's Environmental Health Bush Administration Report Card for 2001–2004. On April 5, 2004, CEHN published its most recent report card on its own Internet site which graded the Bush Administration's environment record with an ''F'' on protecting children's health citing sixteen areas where it claims the Bush Administration is lacking in protecting children's health.

The third grant to CEHN was awarded from EPA Region 3 in the amount of $2,600 for the purpose of training two Washington, D.C. highschool students to assist with environmental education in a local elementary school classroom. CEHN coordinated the training for these two highschool students in a there-week course. Representatives from the Sierra Club, Environmental Defense, the EPA, and others made presentations to the students about a variety of topics including ''lead poisoning, asthma, ozone depletion, global warming, the workings of a power plant, and water topics.'' Although the students toured a water treatment facility in conjunction with the presentations, EPA officials could not confirm that the students actually toured a power plant. The grant reports CEHN submitted also did not include a representative from the utility industry as a presenter, and EPA officials also could not confirm that the students received any information from industry representatives.

Finally, the fourth grant EPA awarded to CEHN is the largest. The EPA Office of Prevention of Pesticides and Toxic Substances awarded the first installment of an ongoing grant totaling $332,304.00 over the grant period August 2002 to July 2005. The purpose of this grant is to increase available scientific information on children's health to CEHN and other non-governmental organizations. Like all other grants awarded to CEHN, this grant was awarded through an unsolicited proposal without competition with any other potential applicants. Interestingly, the chairperson of the board of directors for CEHN is the former EPA Assistant Administrator for the Office of Pesticides and Toxic Substances during the Clinton Administration from 1993 to 1999. EPA officials involved in approving and monitoring this grant advised EPW Majority Staff that although they personally did not work closely with the former Assistant Administrator, they worked for the Office of Pesticides and Toxic Substances during the same period.

Environmental Defense, Inc.

Environmental Defense describes itself as ''fighting to protect human health, restore the oceans and ecosystems, and curb global warming.'' Environmental Defense is represented by two organizations: Environmental Defense, Inc., 501(c)(3) organization, and the Environmental Defense Action fund, Inc., a 501(c)(4) organization.

Environmental Defense, Inc. reports consistently increasing amounts of end of the year net assets from approximately $33 million in its tax filing for the period ending 1999 to over $49 million for 2003. During that same period Environmental Defense, Inc. has received increasing amounts of direct public contributions, from $28.4 million in 1999 to nearly $42 million in 2003. This organization also reports spending varying amounts in direct and grassroots lobbying expenditures for the same period, spending $528,804 for 1999, $410,975 for 2000, $857,542 for 2001, $673,548 for 2002, and $856,983 for 2003. Environmental Defense, Inc. reports making those expenditures lobbying Congress and the Administration agencies including the EPA.

Environmental Defense, Inc. also reports receiving varying amounts of annual government grants. It reported receiving $752,645 for 1999, $505,170 for 2000, $575,673 for 2001, $273,116 for 2002, and $341,338 for 2003. Environmental Defense, Inc. has also received over $4.6 million from the EPA in discretionary grants since 1993, many, if not all, awarded without competition with other potential applicants.

The Tides Center

The Tides Center describes its organization as ''working with new and emerging charitable organizations who share our mission of striving for positive social change.'' This organization is represented or affiliated with two other organizations: the Tides Foundation, a 501(c)(3) foundation, and the Tsunami Fund, a 501(c)(4) organization.

The Tides Center and Tides Foundation regularly grant funds to what it designates as its projects. To receive funding, The Tides Center's main requirement for becoming a new project is that the ''project's work falls within the Tides Mission of working toward progressive social change.'' Some of the projects the Tides Center and Tides Foundation have funded include other environmental organizations such as the Environmental Working Group, the Natural Resources Defense Council, and affiliates of the Sierra Club and Greenpeace.

The Tides Center regularly reports annual end of the year net assets increasing from $21.1 million in its tax filing for the period ending 1999 to $33.8 million in 2003. During this same period, the Tides Center reports increasing direct public contributions from $38.7 million in its 1999 filing to nearly $60 million in 2003. The Tides Center reports varying amounts of legally allowable direct and grassroots lobbying expenditures between $22,505 in its 1999 filing to $601,885 in its 2003 filing with a 2002 filing disclosing expenditures of nearly $1 million.

The Tides Center also regularly receives several millions of dollars of government grants in increasing amounts each year. The Tides Center reported receiving $1,626,906 for 1999, $1,582,370 for 2000, $2,145,499 for 2001, $3,481,484 for 2002, and $5,175,732 for 2003. Although the Tides Center has received increasing amount of funding in grants, the U.S. Department of Housing and Urban Development (HUD) Inspector General audited the Tides Center as recently as September 2002 and recommended that HUD consider suspending grant funding until the Tides Center and its project organization partner in the audited grant develop and implement appropriate management controls to ensure the Tides Center's compliance with federal rules concerning allowable expenditures for federal funding. The EPA reports that the Tides Center and Tides Foundation have received nearly $2 million in federal grants from the EPA alone since 1993. EPW Majority Staff interviewed EPA approving and project officers in four grants EPA awarded to the Tides Center. In two of the selected grants, EPA made the awards without solicitation or competition with other applicants. In fact, the single largest grant EPA has made to the Tides Center since 1993 was awarded for a term of May 2002 to December 2003 for a total of $477,275. The grant was awarded for the purpose of encouraging public participation in the cleanup of hazardous waste at federal facilities. Although the grant was awarded without solicitation or competition, EPA confirmed the project officer has made on-site visits to the grantee and has requested an audit of funds to ensure EPA grant funding is separated from other funds used by the Tides Center. In another ongoing grant to the Tides Center totaling $75,000 for the purpose of developing a white paper on the markets for environmental papers, EPA again confirmed this grant was awarded subsequent to an unsolicited proposal and without competition. In fact, in awarding funding to the Tides Center in other grants based on unsolicited proposals, EPA has simply recorded that the grantee has ''unique and superior qualifications to perform the work.'' However, in each of these previously described grants, EPA project officers confirmed that prior to this particular grant oversight with Tides Center, neither had any prior experience with the Tides Center.

In two of the other two selected grants, EPA made the awards with competition with one award approved by the awarding office's

Assistant Administrator. The first of these ongoing grants was for a total of $125,000 for a grant term of September 2003 to August 2006, for the purpose of ''strengthening the national network of brownfield environmental justice and community groups, technical assistance, training, research on schools sitting on contaminated property, regional workshops, and history of selected brownfields community efforts.'' The grant application, however, states that the Tides Center will ultimately apply for a total of $442,000 for this project. The Tides Center's submitted proposal for the grant includes conducting conferences, workshops, and producing fact sheets. The EPA Office of Solid Waste and Emergency Response awarded this grant following a review throughout the office with final approval by the office Assistant Administrator. EPA officials confirmed that the solicitation for this grant was available for forty-five days on the agency Web site. EPA received forty-four proposals and awarded twenty-one. Finally, the fourth Tides Center ongoing grant in which EPW Majority Staff interviewed EPA officials involved an awarded amount totaling of $150,000 for a grant term of May 2004 to May 2004, for the purpose of ''improving meaningful non-federal stakeholder involvement in decisions concerning clean up of hazardous waste at federal facilities. In this grant, EPA reports that it prepared a solicitation that was available for sixty days on the agency Web site and in the Federal Register. EPA received a total of twenty-three proposals and awarded one. Proposals were evaluated by a panel comprised of EPA personnel and two additional members from the Army Corps of Engineers and the Department of Energy.

Consumer Federation of America

The Consumer Federation of America describes its purpose as to ''work to advance pro-consumer policy on a variety of issues before Congress, the White House, federal and state regulatory agencies, state legislatures, and the courts.'' The Consumer Federation of America (CEA) was formerly represented by two organizations: the Consumer Federation of America Foundation, a 501(c)(3) organization, and the Consumer Federation of America, a 501(c)(4) organization. According to the CFA, currently both organizations have now merged into one 501(c)(3) organization following an EPA Inspector General audit completed March 1, 2004 that was referenced in testimony on EPA grants management before the Environment and Public Works Committee on March 3, 2004.

The CFA reported end of the year net assets of $609,745 for its IRS filing for the period ending 2003. It also reports receiving $184,110 in direct public contributions during that same reporting period. CFA has regularly filed Lobbying Disclosure Act reports disclosing lobbying expenditures between $80,000 and $200,000 from lobbying Congress and a variety of federal agencies. In fact, the EPA Inspector General included in its audit of CFA that CFA had an estimated total of $940,000 in direct lobbying costs from 1998 through 2002.

The CFA Foundation has also been a regular recipient of grant dollars from the EPA. Since 1993, the CFA or CFA Foundation has received over $8 million alone from the EPA. However, during the EPW Committee grants management oversight hearing held March 3, 2004, the OIG testified to the following:

''We have reported on EPA shortcomings in overseeing assistance agreements for over ten years. A particularly relevant example is a recent report in which we questioned $4.7 million because the work was performed by an ineligible lobbying organization. EPA awarded the cooperative agreements to an associated organization but did not have any employees, space, or overhead expenses. In addition, the ineligible organization's financial management practices did not comply with Federal regulations. The recipient did not adequately identify and separate lobbying expenses in its accounting records. As a result, lobbying costs may have been charged to the Federal projects.''

The OIG included its March 1, 2004 audit of the CFA with its testimony which concluded with the following summary:

''In summary, the [CFA] Federation, a 501(c)(4) organization: (1) performed direct lobbying of Congress, and (2) received Federal funds contrary to the Lobbying Disclosure Act. Consequently, all the costs claimed and paid under the agreements are statutorily unallowable.''

EPA has advised EPW Majority Staff that it continues to work to resolve this issue with CFA and to develop a response to the OIG audit. EPA has also disclosed that the agency offices awarding the grants to CFA that were subject to the audit did not prepare solicitations for the grants nor subject the grants to competition with other potential applicants.

World Wildlife Fund

The World Wildlife Fund (WWF) describes its purpose as the ''conservation of nature,'' and describes its conservation work as focusing on three issues: ''saving endangered species, protecting endangered habitats, and addressing global threats such as toxic pollution, over-fishing and climate change.'' The WWF advocates for a wide variety of issues, such as opposing oil and gas development in the Arctic National Wildlife Refuge, strengthening the Endangered Species Act, advocating for global warming legislation, and arguing that the Bush Administration plans to eliminate millions of acres of national forests for road building, logging, and mining interests.

The WWF is a 501(c)(3) tax exempt nonprofit organization. The WWF reports increasing end of the year net assets ranging from $114 million for its tax filing in the period ending 1998 to $146 million for 2003. During this same period the WWF reports receiving an increasing amount in direct public contributions from $66.6 million for 1998 to $79 million for 2003. The WWF also reports lobbying expenditures each year from 1998 to 2003 in amounts from $121,138 to $400,548. The WWF reports making these expenditures lobbying Congress and the Administration, including the Department of Interior, U.S. Forest Service, and the EPA.

The WWF is also a regular recipient of government grants and reported receiving over $20 million in government grants from 1998 to 2001. The WWF reported receiving government grants of over $18 million in 2002 and over $16 million in 2003 alone. Since 1993, the WWF has received over $1.6 million in EPA discretionary grants including the most recent ongoing EPA grant to the WWF for $100,000. The EPA Office of Research and Development (ORD) awarded this grant to the WWF beginning May 2002 for the purpose of providing technical assistance to governmental departments of American Samoa to assess the impacts of climate change on coral reef systems. EPW Majority Staff interviewed EPA approving and project officers for this grant. Although this grant was awarded prior the EPA's discretionary grant competition, the ORD prepared a solicitation for this grant that was available from July 2001 to October 2001 on the EPA Web site and in the Federal Register and Commerce Business Daily. The ORD received twelve proposals that were evaluated by a panel consisting of representatives from the EPA, the National Oceanic and Atmospheric Administration, and Harvard University. EPA awarded grants to five of the twelve proposals. The WWF proposal begins with the foundation that global warming due to anthropogenic effects is causing damage to coral reefs among other detrimental effects. The EPA reported that part of the monitoring requirements WWF is to meet during the term of the grant is to submit periodic reports. In each grant quarterly reports prepared by WWF, the WWF reports working with local governmental departments sampling and conducting studies gathering information on the damage to coral reefs and associated species to ultimately recommend means to protect American Samoa's corral reefs. EPA officials anticipate the grant will conclude in 2005. EPW Majority Staff also asked EPA officers responsible for monitoring the grant whether grant management was sufficiently described in their job description and whether it is an area in which EPA measures their job performance. Interestingly, one EPA officer responded that since being assigned to ORD, both aspects were true. However, the same EPA officer responded that in previous assignments neither aspect was true.

Friends of the Earth

Friends of the Earth states its mission as the following: ''Friends of the Earth defends the world and champions a healthy and just world.'' Friends of the Earth is a group critical of the Bush Administration's environmental record, suggesting that political contributors have solely determined the environmental agenda of the Bush Administration.

Friends of the Earth is represented by two organizations: Friends of the Earth, a 501(c)(3) organization, and Friends of the Earth Action, Inc., a 501(c)(4) organization.

Friends of the Earth has consistently reported end of year net assets between $1 million and $3 million in IRS filings for periods ending in 1998 through 2003. Over the same period, Friends of the Earth has reported receiving annual direct public contributions from $3.5 million for 1999 to $4.4 million for 2003. From 1999 to 2003, Friends of the Earth also reported lobbying expenditures from $29,433 to $111,849. Friends of the Earth annual lobbying reports disclose these expenditures include lobbying Congress and the Administration, including the EPA.

Since 1999, Friends of the Earth has regularly reported it has received no government grants; however, it has received small federal grants from the EPA from 1993 to 1999 totaling about $200,000. Like many other discretionary grants, EPA acknowledges that these grants likely were awarded without a public solicitation and without competition with other potential applicants.

World Resources Institute

The World Resources Institute describes itself as an independent non-profit organization and describes its mission is to ''move human society to live in way that protect Earth's environment and its capacity to provide for the needs and aspirations of current and future generations.'' The World Resources Institute (WRI) is represented by two 501(c)(3) tax exempt non-profit organization, the WRI and the World Resources Institute Fund.

The WRI board of directors consists of thirty-two members including representatives from fellow EPA grantee, the Natural Resources Defense Council, and the League of Conversation Voters. WRI describes its work as being, ''concentrated on achieving progress toward four key goals: protect Earth's living systems; increase access to information; create sustainable enterprise and opportunity; reverse global warming.''

In IRS reporting periods from 1998 to 2003, the WRI regularly reports end of the year

net assets from $46 million to $57 million. During this same period the WRI reported receiving varying amounts of annual direct public contributions, from $8.6 million for 1998, $14.3 million for 1999, $9.4 million for 2000, $15.7 million for 2001, $21.7 million for 2002, and $9.3 million for 2003. WRI has also reported consistently receiving millions of dollars in government grants each year. WRI reported receiving $3.2 million for 1998, $2.4 million for 1999, $2.9 for 2000, $2.3 for 2001, $3.4 for 2002, and $2.7 for 2003. The WRI is also a regular recipient of EPA grants, totaling around $8,132,060 million awarded since 1993. All except $575,000 of the total amount of grants awarded to WRI were awarded prior to the EPA competition policy. Additionally, all of the $575,000 awarded since 2003 has been awarded in amounts under the competition policy threshold or were incremental amounts under already awarded original grants. Unless the awarding office within EPA for any of the grants within the $8.1 million instituted its own competition policy, EPA acknowledges that all $8.1 million was likely awarded without solicitation and competition with other potential recipients.

National Wildlife Federation

The National Wildlife Federation describes itself as ''the nation's largest and oldest protector of wildlife.'' The National Wildlife Federation is involved in various environmental issues and features a ''Take Action'' page on its Web site advocating for national global warming legislation and characterizing the Bush Administration as ''ax[ing] protections for National Forest across the country.''

The National Wildlife Federation is represented by two organizations: the National Wildlife Federation, a 501(c)(3) organization, and the National Wildlife Action, a 501(c)(4) organization.

The National Wildlife Federation has reported varying annual end of the year net assets from $33.8 million in its IRS filings for the period ending 2000 to $6.7 million for 2003. During the same period, the National Wildlife Federation reports receiving direct public contributions from $34.7 million for 1999 to $37.9 million for 2003 with public contributions over $40 million for 2001 and 2002. The National Wildlife Federation also reports consistent lobbying expenditures from $140,000 to $371,000 from 2000 through 2003.

The National Wildlife Federation has also reported regularly receiving government grants each year, with $265,441 for 2000, $214,811 for 2001, $244,403 for 2002, and $330,941 for 2003. EPA reports that it has awarded the National Wildlife Federation approximately $600,000 since 1994 all of which was awarded in grants which individually amounted to well under the EPA's new discretionary grant competition policy threshold.

STAPPA–ALAPCO

STAPPA–ALAPCO is the combination of the State and Territorial Air Pollution Program Administrators, a 501(c)(3) organization, and the Association of Local Air Pollution Control Officials, a 501(c)(6) trade association. STAPPA–ALAPCO describes itself as the ''two national associations that represent air pollution control agencies in 54 states and territories and over 165 major metropolitan areas across the United States.''

STAPPA–ALAPCO receives no direct public contributions, and according to the EPA, it receives all of its funding from EPA through government grants. STAPPA–ALAPCO created a ''Secretariat'' in 1980 and that has been receiving funding through Clean Air Act grants from the EPA Office of Air and Radiation since that time. These grants are exempt from the EPA competition policy because of an exemption for co-regulators.

STAPPA–ALAPCO has drawn the past criticism of Chairman Inhofe for its regular Congressional testimony supporting a variety of new EPA rulemakings. In his opening statement in an EPW Committee hearing in July 2002 concerning environmental regulations affecting military readiness, Inhofe stated:

''How many times has STAPPA–ALAPCO testified before Congress, and how many times were they opposing the streamlining of procedural paperwork. . . . These groups of government bureaucrats invariably wind up testifying for bigger government and opposing smaller government.

''To add insult to injury, not only are the salaries of these individual government employees paid with our tax dollars; quite often the groups themselves receive separate, additional, appropriated dollars to pay for the groups themselves and the activities of these groups. As I say, these activities almost invariably amount to lobbying for bigger government and more expenditures of our tax dollars with an emphasis not on better results but rather on more procedures.''

Pursuant to a resolution of member states, EPA calculates the individual shares of each member state and sets aside funds from Clean Air Act grant allocations for a state to fund STAPPA–ALAPCO. This method of EPA directly funding STAPPA–ALAPCO has drawn past criticism. For instance, language in the conference report for the 2001 Department of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Bill directed EPA to withhold state and local grant funds at the national level to pay for activities of programs only if such activities are efforts that will benefit state and local air agencies, if the activities are the responsibility of state and local air agencies and if state and local air agencies have provided their concurrence. A state is free to withdraw support from STAPPA–ALAPCO. Additionally, a state is now also free to support STAPPA–ALAPCO directly. In fact, not all states are currently members of STAPPA–ALAPCO. In response to an EPW Majority Staff request for the total amount of EPA grants awarded to the STAPPA–ALAPCO Secretariat over the period 1988–2003, EPA responded with a list of five grants for a total of $6,190,830.

CONCLUSION

The EPA awards over half of its annual budget each year in grants. The GAO, OMB, and OIG have made various common criticisms of EPA grants management, including a lack of measurable environmental results, a lack of a measurable probability of success from the grants, no evaluation of reasonable costs in grants, and a general lack of oversight of EPA personnel and grantees. Although much of EPA's grant funding is provided in formula-based non-discretionary grants to state and local governmental entities, several hundred million dollars each year are awarded to discretionary recipients. For several years, the GAO, OMB, and OIG have criticized the management of these discretionary grants, in particular citing that EPA has often awarded these grants without widespread solicitation or competition with any other potential applicants. The GAO has argued that EPA oversight of discretionary grants has been particularly problematic especially of non-profit recipients. The OIG has even argued that this lack of competition in discretionary grants has given the appearance of years of preferential treatment in EPA discretionary grant awards. EPA has responded with new competition and oversight policies and a five-year grants management plan to cure the years of criticism of its overall grants program. This preliminary report confirms some of those criticisms in some individual discretionary grants and highlights some promising practices within the EPA to better manage and award discretionary grants.

However, this report also reveals the problem that EPA has consistently awarded discretionary grants to non-politically involved groups. These grants have been awarded in large part without solicitation or competition with other applicants and may have received the least oversight from EPA. The example of the OIG audit of the Consumer Federation of America may be a discrete situation or may simply be one example of non-profit grant recipients taking advantage of past EPA grant oversight to potentially use funds for unintended purposes. In either case, however, EPA needs to be aware that it regularly subsidizes non-profit organizations with discretionary grant funding that are partisan or otherwise politically active. Of all new reforms in EPA grants management, reforms in discretionary grants can occur immediately due to the fact they are just that—discretionary. EPA should include in its new culture of grant management a careful scrutiny of all the activities of discretionary grant applicants to absolutely ensure grant awards are being used for their intended purposes. In addition, and as important as ensuring allowable costs, the Administration should ensure that it is not being undermined by the other activities of its grants recipients and give equally careful scrutiny to the wide spectrum of political activity of some of its discretionary grant recipients before making awards.

HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State fair booth this summer. I honor these teachers further by submitting their names to the CONGRESSIONAL RECORD as follows:

Concordia College-Moorhead—Duane Mickelson; Congdon Park Elementary—Cathy Armstrong, Mary John, Dan Kopp, Kathy Sharrow; Convent of the Visitation School—Richard Barbeau, Judy Benson, Darlene Dailey, Theresa Jasper, Ann Matson, Zinny Mooney, Robert Shandorf, Brian Waltz; Cook County High School—Al Heine; Coon Rapids—Ms. Beachler, Mrs. Hussian, Jan Krunze, Lorraine Newkirk, Ms. Sonstegaard; Coon Rapids High School—Linda Carlson, Anne Collins, Paula Karjahlati, Gail Parr-Van Zee, Francis Prokash, Miles Wagner; Coon Rapids Middle School—Lori Landry, Dawn Ressler; Coon Rapids Senior High—Dave Rykken; Cooper Elementary, Minneapolis—Bill Bauer, Cathy Sullivan, Faye Wooten; Cooper High School, New Hope—Kari Christensen, Lisa Emison, Samuel Tanner; Cornelia Elementary—Pala Thomasgard; Cornell Elementary—Nancy Helgerson; Cottage Grove—Joe Adams, Mr. Herbert, Audrey Osofsky; Cottage Grove Elementary—Shannon Hagness, Jennifer Skarphol, Heather DeCramer; Cottage Grove Junior High—Mike Amidon, Ms. Hanson; Countryside Elementary—Mr. Bjerken, Margie Galvin, Ms. McCullough, Jeanne Sumnicht, Mr. Thorkelson, Deb Vork; Crawford Elementary—Gordan Leverett; Creative Arts School-ALC, St. Paul—Rich Anderson; Creek Valley Elementary—Sarah Dolphin; Crest View Elementary, Brooklyn Park—Angela Bailey-Aldrich; Crestview Elementary, Cottage Grove—Chuck Broman, Mrs. Phelps, Leah Pollman; Cretin-Derham Hall—Judith Kavanaush, Mike Main, Andrew Mons, Rob Peick, Mr. Pike, Laurel Zummerman, Jim O'Neil, Staff of the Spanish Department; Cromwell-Wright Elementary—Lea Anderson-Tiili, Bill Frienmuth,

Mr. Koenig; Crooked Lake Elementary—Ms. Clair, Mrs. Coe, Mrs. Gibson, Pam Manko, Maureen Ledin, Mrs. Stowell; Crookston—Nancy Melby; Crossroads Elementary—Ruby Buchmayer, Axel Caberea, Gina Costello, Melissa Green, Virginia Herriges, Karen Lee, Mrs. Watterrud, Brenda Petta; Crosswinds Arts and Sciences Middle School—Mark Russo; Crystal Lake Elementary—Sharon Dewald; Custer High School, Milwaukee, WI—Daniel Przybylowski; Cuyuna Range Elementary—Wendy Gindorff; Cypress Elementary, New Port Richey, FL—Susan Phillippi; Dakota Hills Middle School—Greg Montbraind, Michael Schlink, Heather Thaller; Dakota Meadows Middle School—Joe Broze, John Lawton; Dakota Prairie Unity High School—Cliff Peterson; Dallas Center Grimes Community High School, Grimes, IA—Steven Saleas; Dassel-Cokato High School—Susan Marco; Dassel-Cokato Middle School—Kip Kip Link, Julie Lund, Nathan Youngs; Dassel-Cokato Senior High Joe Harmala, Linda Bain, Lanett Daniel, Dianne Eveland, Kristin Gruber, Kate Michaels, Terry Protivinsky; Deephaven Elementary—Karl Boberg, Diane Jost; Deer Path Middle School, Lake Forest, IL—Thomas Cardamone; Deerwood Elementary—Debbie Iverson, Julia Kirschbaum; Delano High School—Mr. Johnson; Delano Middle School—Mr. Bergren, Gary Brophy, Tory Spainer; Denfelt Senior High—Ruth Schulzt; Desert Ridge Elementary, Phoenix, AZ—Mr. Cook; Desert Sands Unified School District, La Quinta, CA—Mrs. Kcop; Dexter High School, Dexter, MI—Richard Grannis; Diamond Path Elementary—Nancy Cooley; Discovery Elementary—Marsha Watkins; Douglas Elementary—Bette Jacobs; Dowling Elementary—Laurel Engman, Joseph Rossow, Bob Tscida; Downtown Open School—Kate Bowler, Abby Lindesmith, Kristin Sonquist; Duluth Kathy Fahrion, Deanne Ferguson; Duluth Central High School—Sherman Moe; Duluth East High School—LaDonna Bergum, Robert Mix, Bill Tormendson; Duluth Public Schools—Judy Kopperman; Duluth Secondary Tech School—Lou Zywicki; Eagan High School—Peter Otterson, Mrs. Zimmen, Amanda Adams, Adam Copeland, Barb Geier, Roland Hoke, Joe Joran, Jane Lee, Jesse Madsen, Paulette Reikowski, Sue Retka, Kim Waltman; Eagle Lake Elementary—Mrs. Barsness; Eagle Point Elementary, Oakdale—Lucille Bryant, Cheryl Chacka, Marge Proulx; Eagle Ridge Junior High—Tia Clausen, Mandi Johnson, Mrs. O'Connell, Barb Johnson; Earl School, Fort Peck, MT—Betty Hirsch; Earle Brown Elementary—Mr. Axen, Amy Berge, Mary Mandel; Early Childhood Family Education, Balaton—Diane Peterson; Early Childhood Family Education, Buffalo—Patty Lammers; Early Childhood Family Education, Ruthton—Tracey Kuhlman; Early Childhood Family Education, Slayton—Diane Ellens; Early Childhood Family Education, St. Michael—Mona Voelker; Early Childhood Special Education, Glencoe—Cindy May; East Bethel Community School—Kate Arnold; East Grand Forks School District—Marcie DeGroot; East High School—Mr. Bender; East Saint Paul Lutheran School—Rick Block, Karen Reem; East Side Elementary—Cheryl Hoff; East Union Elementary—Jenny Killian; Eastern Heights Elementary—Sharon Graves; Eastside Workplace Kindergarten—Michelle Brunswick; Eastview High School—Ms. Henrickson, Mary Kuettner, Frank Pasquerella, Ann Strey; Echo Park Elementary—Kim Coleman; Eden Lake Elementary—Brian Gunderson, Pat Kinch, Janet Krmpotich, Kate Plamer, Joan Tetrick, Kim Thrasher; Eden Prairie High School—Steve Cwodzinski, Michael Holm, Marty Teigen, Jo King, Margaret Bicke, Mark Bray, Karen Breittingen, Annie Cull, Mike Holm, Ms. Kanthak, Bruce Kivimaki, Kari McSherry, Dean Raths, Rob Saint Clair, Vince Thomas, Brent Turner, Linda Wallenberg, Mrs. Welter, Mrs. Werning, Mike Whipkey; Edgerton Elementary—Ann Benson, Mrs. Rasusson, Terry Tremain, Mrs. Wobbema; Edgewood Middle School—Bill Sucha, Debbie Wall, Shelly Wright; Edina High School—Daniel Baron, Mr. Benson, Kim Budde, Gail Casey, Tom Connell, Martha Cosgrove, Besty Cussler, Alegjandro Diaz-Andrade, Barney Hall, Lisa Hanson, Angela Kieffer, Colleen Raasch, Chris Reono, Michael Roddy, Brian Simpson; Edina Highlands Elementary—Mark Wallace; Edinbrook Elementary—Mrs. Gerber, LuAnn Gunderson; Edison High School—Mike Doyle, Norman Glock, Frank Goodrich, Matt Maki, Robert Sivanich, Pamela Wolfe; Education Service Center, Bloomington—Anna Smith; Edward Neill Elementary School—Judie Prayfrock; Eisenhower Elementary—Cathy Berger; El Colegio Charter School—Cathy Diaz; Elk River High School—Kathy Ellefson; Elk River School District—Mrs. Talley; Ellis Middle School—Sylvia Stier; Elton Hill Elementary—Kelly Wright-Glynn; Elysian Elementary—Mark Meyer, Sandy Mielke; Emerson Spanish Immersion—Flory Sommers, Theresa Wilson; Emmet D. Williams Elementary—Susan Bates, Diane Biederman, Ms. Hagen, Jessic Reinhart-Lind, Joni Springer; Epiphany School—Betty Flanigan, Matt Foslyn, Wendy Snyder; Ericsson Elementary—Sharon Bahe, Kathleen Hewitt, Terry Vick; Eveleth-Gilbert Senior High—Betty Daniels; Evergreen Park Elementary—Beth Neil; Excell Academy—Aaron Hjermstad, Megan Hjermstad; Excelsior Elementary—Mark Broten, Mark Garrison, Tim Ketel, Sara Macke, Sandy Miller, Mrs. Nickle, Annette Smith; EXPO for Excellence Magnet—Mrs. Desembre, Mrs. Michel, Mary Ross, Ulla Tervo-Desnick, Maura Tschida; Face to Face Academy—John Vasecka; Fairmont High School—Daniel Chicos, Mr. Gorath, Cliff Janke, Dan Schuh; Fairview Elementary—Darren Lukenbill; Faithful Shepherd Catholic School—Kim Michalak, Julee Titze; Falcon Heights Elementary—Paul Charest, Delores Cox, Kelly Klein, Meggan Lovick, Holly Maddox, Ms. Plathe, Mrs. Slashmacher, Mrs. Wingingland; Falcon Ridge Middle School—Dave Fournier, Gregg Kotsonas, Sharon Lund; Falls High School—Mr. Bjorquist; Falls Secondary—Darrell Schmidt; Faribault High School—Mrs. Bottke, Bernie Engrav; Farmington Middle School West—Sue Bieraugel, Patti Haberman; Farnsworth Elementary—Jane Vega; Fergus Falls High School—Sue Empting, Judith Halverson; Fergus Falls Middle School—Dave Ellis, Mr. Mitberg; Fertile-Beltrami—Kordula Holmrick, Joan Kronschnabel, Scoot Larson; Field Elementary—Mary Hill, Ms. Slocum, Sandy Barry, Allison Constant, Ms. Stevenson; Willow River Elementary—Brian Bassa, Jeannie Mach; Wilshire Park Elementary—Gail Beall, Ms. Burba, Kathie Frank, Jason Hartman, Sarah Taylor, Mrs. Wyatt; Windom Open Elementary—Kim Landreville; Winona Area Catholic School—Linda Schauer; Winona High School—Daryl Miller, James Miller, Meryl, Nichols; Winterquist Elementary—Brooke Pfister, Wendy Smith; Woden-Crystal Lake School District—Howard Dorman; Woodbury High School—Theresa VonRuden; Woodbury Elementary—Linda Brommer, John Flavin, Julie McGee, Kay Peliter, Dave Ross; Woodbury High School—Dave Carlson, Meredith Deullman, Bruce Monroe, Duane Tannahill, Theresa VonRuden; Woodbury Junior High—William Barr, Tania Dantas, Sarah Prunty, Shannon Smith, Frau Tol, Jim Carlson, Mrs. Rafferty, Robert Schumacher; Woodland Elementary—Joni Hodsdon, Terry Langager, Scott Lund, Diana Rotty, Stuart Samsky; Woodland Hills Academy—Wendy Robinson; Worthington High School—Mr. Sphingen; Wrenshall High School—Kris Nelson; Wylie Elementary School—Mr. Durhlam; Wyoming Elementary—Tom Erickson, Cheryl Runquist, Julie Sorenson, Terry Buerkle, Mary Ellen Dellwo; Zachary Lane Elementary—Yvonne Peterson, Angela Steiner, Mike Westby; Zanewood Elementary—Jon Fritz; Zemmer Junior High—Mike Suschler; Zimmerman Elementary—Mrs. Gerlach, Barb Roos, Ben Kvidt; Zion Lutheran Christian Day School—Sheila Sandell; Zumbrota-Mazeppa Elementary—Mary Ann Urban.

VOTING INTEGRITY AND VERIFICATION ACT

Mr. BURNS. Mr. President, I would like to take a few moments to comment on S. 2437, the Voting Integrity and Verification Act, VIVA, which prevents any vote in the upcoming election from being cast inaccurately by allowing voters to check their ballots on paper to ensure accuracy. The paper trail required with this bill would serve as a safety net if an electronic malfunction happens to occur.

American voters are skeptical coming into the 2004 election after the much debated recounts that took place in the 2000 election, and in order to put the voters at ease, we must make our voting technology better and keep every vote on record. I have heard from several Montanans who say they want the security to view an individual paper version of the ballot before it is cast and counted. They also want to know they have the opportunity to correct errors that are discovered on the individual paper version of the ballot that this bill will provide. I join Senator ENSIGN and Senator REID in urging all of my colleagues to vote in favor of the Voting Integrity and Verification Act of 2004 to ensure that votes are accurately cast in the upcoming election.

PROGRESS ON TAA

Mr. GRASSLEY. Mr. President, I rise to address the progress that's been made in how the Trade Adjustment Assistance, or TAA, program operates. You may recall that in 2002, I worked with Senator BAUCUS to shepherd landmark TAA reforms through Congress. President Bush acknowledged the role of TAA as an important part of his comprehensive trade agenda when he signed these reforms into law in August of that year. The reform legislation made a number of changes to TAA, including, for the very first time, the addition of a new health coverage tax credit, or HCTC, and a new wage insurance provision, as well as a doubling of the funds available for retraining workers dislocated by trade. Given the number and significance of the changes made to TAA, I joined Senator BAUCUS in asking the Government Accountability Office, or GAO, to study how the TAA Reform Act is being implemented. Separately, we asked GAO

to study how the health coverage tax credit is being implemented. The GAO report on TAA came out last month, and while it's clear some of the details of implementation merit further study, overall the report shows a marked improvement in the way TAA is administered.

The GAO report notes that the Department of Labor has reduced its average petition-processing time from 107 days in 2002 to 38 days in 2003, and the percentage of petitions processed in 40 days or less increased from 17 percent in 2002 to 62 percent in 2003. Certified workers are enrolling in training services more quickly than in prior years. More broadly, it is evident that the funds available under TAA are beginning to be administered more effectively. One of the hurdles that Labor officials had to overcome was a perception, at least in some states, that all TAA-eligible workers are entitled to training. According to GAO, that perception contributed to problems with managing TAA training funds.

In response, the Labor Department has encouraged, States to take steps to better administer TAA funds. The Labor Department has also improved the way it disburses training funds so that State officials can better target the funds that are available to workers who are truly in need of training. These efforts are starting to pay off; in fact, after the GAO report came out, we learned that thanks to improved administration by the Labor Department, $28.4 million dollars was available at the end of the 2004 fiscal year for supplemental distribution. Last week my home State of Iowa received an additional $559,626 dollars in additional TAA training, job search; and relocation funds. These funds will help ensure that trade-impacted Iowans will receive the benefits they are entitled to under the program. The same is true for States across the country. I think we can all agree that it is good to see our taxpayer dollars being spent more wisely.

Unfortunately, the GAO report fails to capture the full breadth of the improvements made by the Labor Department. The report States that 19 states temporarily discontinued enrolling TAA-eligible workers in training at some point between fiscal years 2001 and 2003 because they lacked adequate training funds. However, GAO collected only aggregate data, so it is unclear how many States temporarily discontinued enrollment before funding was doubled in the TAA Reform Act of 2002, versus after. That information would have been helpful. The report does note that six States temporarily discontinued enrollment during fiscal year 2004, which is quite puzzling given the fact that the TAA program had funds left over at the end of the year. I think it is important to note that Labor dispatched technical assistance teams to help those States implement needed improvements so that workers could get access to training. Since there wasn't any shortfall in funds, it seems those 6 States can work with Labor to administer the program more effectively. So, while Labor's progress has been impressive, there's certainly more work to be done.

The wage insurance provision known as alternative TAA for older workers is a brand new program, so it is not surprising that implementation has not been without hiccups. But things are improving. According to the Labor Department, as of August 2004, 32 States had already issued alternative TAA payments and another 11 States had the capability to do so. In addition, 48 States reported that information on the alternative TAA program is provided as part of their rapid response activities. Approved petitions for alternative TAA increased from 60 in fiscal year 2003 to 937 in fiscal year 2004. Importantly, since alternative TAA went into effect in August 2003, well over 700 workers have received assistance from this new program.

As for the health coverage tax credit, it is also a brand new program. The just-released GAO report shows that the HCTC was implemented at record speed and is providing valuable health care coverage to thousands of displaced workers and recipients of benefits from the Pension Benefit Guaranty Corporation, or PBGC. While the initial take-up rate may not be as high as was estimated at the time the TAA Reform Act was passed, even GAO noted that determining an actual rate of participation rate is difficult. Not all workers initially identified as being eligible will meet all the requirements, and of those that do it is not apparent how many have access to healthcare coverage via their spouse. In addition, enrollment numbers for the HCTC do not reflect all of the dependents who also benefit from the HCTC.

The Labor Department has reached out to educate the public about these and other aspects of the TAA Reform Act. Labor officials conducted 15 training sessions with stakeholders across the country in fiscal years 2002 and 2003. During fiscal year 2004, six regional forums were held for workforce practitioners in which Labor began focusing on policies and practices that integrate service delivery to dislocated workers in need of services. Labor administers a wide array of programs for trade affected workers, including both TAA and the Workforce Investment Act, or WIA. In the past, these programs have been splintered, leading to inconsistent service delivery. Through initiatives started by the current Department of Labor, workers are now receiving a wider array of services in faster time. While it is clear more work remains, the GAO reports do bear witness to the progress that's been made.

I will continue working with Senator BAUCUS to monitor developments and oversee implementation of the TAA Reform Act. We must continue to assess how the program can be improved. For example, there is currently no incentive for States to report the most accurate information possible. We should consider ways to improve the data that is reported, so the TAA program's true impact can be fully assessed. Additional study by GAO may prove helpful in this and other areas. Labor started its own 5-year rigorous impact evaluation of the TAA program this year, and that should also prove helpful. But while there is room for improvement, it is also true that much has been accomplished, and I want to take this opportunity to thank the hard working officials at the Department of Labor for their dedication in implementing the significant changes brought about by the TAA Reform Act of 2002. I also thank officials at the Internal Revenue Service, the Centers for Medicare and Medicaid Services, and PBGC, along with those in State agencies, who have worked so hard to implement the HCTC.

NUCLEAR MEDICINE WEEK

Mr. WARNER. Mr. President, I rise today to remind my colleagues that this week is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, VA. The Society of Nuclear Medicine is an international scientific and professional organization of more than 15,000 members dedicated to promoting the science, technology and practical applications of nuclear medicine. I commend the society staff and its professional members for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses.

Some of the more frequently performed nuclear medicine procedures include: bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, measure heart function or determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; and renal imaging in children to examine kidney function.

I thank all of those who serve in this very important medical field and join them in celebrating Nuclear Medicine Week.

ORAL HEALTH AND OLDER AMERICANS

Mr. BREAUX. Mr. President, the oral health of older Americans is in a state of decay. Millions of vulnerable seniors are unable to access the oral health care they need, suffer needlessly, and ultimately require costly and invasive treatments that unnecessarily burden our troubled health care system.

Good oral health care should begin at birth as part of overall health care. This important component of health care should not—and cannot—end at retirement. Proper dental care must be a lifetime commitment. Unfortunately, for far too many older Americans, oral health care is a luxury. Too many of our ''greatest generation'' suffer from chronic oral pain and disease, severely limiting regular activities of daily living and impeding their independence. Neglect of oral health may result in the deterioration of overall physical health. Lack of access to care for even routine dental cleanings and exams can exacerbate serious and complicated overall health problems that increase with age.

Limited access to oral health care poses one of the greatest crises for the health and well being of America's elderly. Not one older American receives routine dental care under Medicare. Medigap, used by some older Americans as a supplemental insurance to Medicare, is an expensive cavity when it comes to dental coverage. Less than 20 percent of Americans 75 and older have any form of private dental insurance. Under Medicaid, adult dental care is optional and close to 30 States are failing to meet even the most minimal standards of care. Millions suffer, often in silence.

Older adults suffer from the cumulative toll of oral diseases over their lifetime. This results in extensive oral and periodontal disease. Surveys have shown that nursing home residents with teeth suffer particularly from untreated tooth decay, while those without teeth also have a variety of oral health problems. Medications often adversely affect oral health as well. Evidence suggests that periodontal disease can complicate or is linked to diabetes, heart disease, stroke and pneumonia.

Some older Americans—especially those with special needs, the frail, and those classified by the Social Security Administration to be aged, blind and disabled—are often plagued with challenging oral health needs. Being disabled, medically compromised, homebound, or institutionalized increases the likelihood of serious dental problems and limited access to dental care. Dental care for the 1.65 million people in long-term care facilities is problematic at best.

I would like to tell you about Marcia Ball, who lives in a nursing home in Lafayette, LA. She is 64. One morning last July, she awoke to find her cheek swollen up like a balloon. An untreated abscess had run rampant, sending her to the hospital with a raging fever and labored breathing. After a surgical team drained the infection, her heart and lungs suddenly stopped working. She pulled through, but four days later developed pneumonia. A member of the medical team says that the bacteria from untreated tooth decay entered her lungs every time she inhaled. She returned to her nursing home after two weeks at the hospital. Medicaid paid for three rounds of antibiotics, two trips to the emergency room, two days in intensive care, and the remainder of her hospital stay. But Medicaid in Louisiana, like many other States, won't pay for extractions. So she still has badly decayed teeth, but she doesn't have the $60 needed to cover an extraction or insurance for routine dental care.

Marcia Ball's story is not unusual, according to Dr. Greg Folse, a geriatric dentist in Lafayette. Most of Dr. Folse's patients are keeping their teeth as they age, but he says that over 85 percent have moderate to severe gum disease and 60 percent have tooth decay. Medicaid dental services in Louisiana, where Dr. Folse takes his practice to patients in his van, are limited to dentures, which are not much use for people who still have their teeth.

A national report card released in September by the advocacy group Oral Health America before a forum of the U.S. Senate Special Committee on Aging examined seniors' access to key dental services and gave failing or near failing grades to each State and gave the Nation an overall ''D'' grade. When it comes to caring for vulnerable populations, the report said, the country is flat out failing.

This lack of access to oral health care is compounded by a shortage of skilled geriatric dental care professionals, part of a larger national shortage of geriatricians described to the U.S. Senate Special Committee on Aging by the Alliance for Aging Research in their report, Medical Never Never Land. Just finding a dentist can pose a considerable challenge for older Americans and those with a disability. The good work of community health centers is limited to providing preventative and basic dental care to only about one-in-twelve patients who are fortunate enough to have access to such a facility. In many States that provide a dental benefit, reimbursement rates are too low to attract a sufficient number of dentists willing to treat Medicaid patients.

With scientific advances and the graying of millions of baby boomers, this year the number of elderly on the planet passed the number of children for the first time. Although we have made great strides in promoting independence, productivity and quality of life, old age still brings inadequate health care, isolation, impoverishment, abuse and neglect for far too many Americans.

Oral diseases can impact an otherwise independent, productive life, triggering a downward spiral that can result in malnutrition, serious illness and even death.

In 2000, the Surgeon General's office called oral disease in this country a ''silent epidemic,'' but oral health continues to be an afterthought to other health care issues, and off the radar screen for most national leaders. Congress has never addressed the lack of oral health coverage for older Americans, failing to place these this issue into the national consciousness and addressed the issues at a national level.

We need new infrastructure and funding—focusing resources, creating accountability and changing how we think about oral health in our country, particularly as it affects vulnerable populations. We must lay the foundation to address, in a meaningful and lasting way, a devastating and growing problem that has been invisible for far too long. We can no longer neglect these difficult issues afflicting frail and elderly victims.

This effort needs to take numerous steps to improve access to oral health care:

We need to ensure the provision of oral health screening, diagnostic, and treatment services, particularly for vulnerable individuals, and nursing home and long-term care residents.

We must eliminate the barriers requiring determination of medical necessity. We must ensure that States comply with applied income laws.

We need to ensure greater communication among States and nursing home and long-term care facilities about the need for and availability of oral health services.

More and more of us will enjoy longer, healthier lives with our teeth intact, but with this gift comes the responsibility to prevent the needless suffering too often borne by our frailest citizens.

I appreciate the work of my fellow members and a wide array of excellent groups such as Oral Health America, Special Care Dentistry, and the Alliance for Aging Research, and individuals like Dr. Greg Folse on behalf of oral health and older Americans and look forward to continued support from both sides of the aisle and in both Houses to make oral health a reality for all Americans.

ADDITIONAL STATEMENTS

IN RECOGNITION OF NANCY NADEL

• Mr. CARPER. Mr. President, I rise today to recognize Nancy Nadel, recipient of the Delaware School Nurse of the Year award. Nancy has dedicated her life to her family and to the thousands of school children whose lives she has touched.

Nancy was born in Wilmington on September 16, 1952. She graduated from John Dickinson High School in 1970 and received her bachelor's degree in school nursing in 1974 from the University of Delaware. During college,

Nancy joined the U.S. Army after graduation and was assigned to Fitzsimons Army Medical Center in Aurora, CO. She retired as a Lieutenant Colonel in 1996 from the United States Army Reserve. In 1979, Nancy received her master's degree in school nursing and her Pediatric Nurse Practitioner Certificate from the University of Colorado.

Nancy returned to Delaware in 1983. Three years later, she became the school nurse for the Baltz Elementary School and remained there until 1995, when she went to Forest Oak Elementary School. At Forest Oak, she is known as a nonassuming person, who has a ''quiet way about doing what she does best—being a school nurse.'' She is kind to the children and always looking out for their best interests.

In 2002, Nancy started a fitness program at Forest Oaks Elementary. Having been inspired by a talk on obesity at the National School Nurses Convention, she submitted a grant application, and was awarded $3,300 from the State of Delaware to implement her program. The program promotes increased physical activity and healthy nutrition in first to fourth graders. Nancy hopes to expand the program to also include students in kindergarten and fifth grade and to teachers and staff.

Nancy has also helped coordinate a bike safety program and helmet program, taught open airways classes to empower students with asthma in self care, collaborated with the school guidance counselor and psychologist to meet the emotional and educational needs of students and presented staff education programs in diabetes, asthma and Attention Deficit Hyperactivity Disorder.

Nancy is a member of Sigma Theta Tau, the international nursing honor society, the National Association of School Nurses, the Delaware School Nurses Association, DSNA, and was a member of the DSNA Continuing Education Committee from 1990–1995. Nancy also serves on the Red Clay Nurse Liaison Committee, is the computer representative for the Red Clay School nurses, and is a member of the revision committee for the school nurse technical assistance manual.

Nancy is married to Joe Nadel, a psychologist and teacher at Wesley College. She has four children, Katie, Carolyn, Dan, and Susan, and three stepchildren, Joe, Ian and Mike. In her spare time, she volunteers at Mary Mother of Hope House II by sponsoring food, linen and gift drives at their shelter.

Nancy is an amazing human being. She has been and remains deeply committed to her family, her students, and her community. She has helped shape the lives of thousands in the halls of the institutions she served, and in the hearts of those who have been lucky enough to call her their friend. I rise today to honor and to thank Nancy for her selfless dedication to the betterment of others. She is a remarkable woman and a testament to the community she represents.●

NEW JERSEY ALLIANCE FOR ACTION

● Mr. CORZINE. Mr. President, I rise to recognize the 30th anniversary of the New Jersey Alliance for Action, an organization that has worked tirelessly to improve the quality of life for all New Jerseyans.

The New Jersey Alliance for Action is a nonprofit, nonpartisan consortium of business, labor, government and academic leaders dedicated to creating jobs, improving the economy and protecting the environment. These goals are achieved by modernizing our State's infrastructure to meet the needs of a growing New Jersey. Since its creation in 1974, the New Jersey Alliance for Action has worked to obtain funding and secure permits for road, rail, and aviation improvements, water projects, school construction, shore preservation, business expansion and other key infrastructure initiatives. Today, it boasts more than 600 dedicated members and has developed a solid track record of working closely with state and local governments.

The Board of Trustees of the New Jersey Alliance for Action is composed of some of New Jersey's most prominent business, labor, professional and educational leaders. Through creative partnerships between the public and private sectors, the foundation addresses many of the pressing issues that affect the great State of New Jersey.

While this organization is exemplary, two men must be singled out for their vision and hard work: Richard M. Hale and Ellis S. Vieser. They were responsible for creating an organization that crossed the boundaries, establishing an environment where the interests of New Jersey's citizens are top priority. We owe a deep debt of gratitude for their lifetime of dedication and remarkable leadership. They embodied a can-do attitude together with a sense of community. It is not difficult to see how the alliance has made such giant strides in such a relatively short period of time.

I thank the members of the New Jersey Alliance for Action for continuing the work of Richard M. Hale and Ellis S. Vieser. It is their commitment to the work of the alliance's founders that allows New Jersey to shine so brightly. Congratulations on this very special milestone.●

VETERANS' HISTORY PROJECT

● Mr. JOHNSON. Mr. President, I rise today to publicly recognize the progress of the Veterans' History Project and to honor Greg Latza, author of Blue Stars: A Selection of Stories from South Dakota's World War II Veterans.

Blue Stars honors and immortalizes the incredible stories of forty-four South Dakota World War II veterans. Greg's inspiration for writing this book came in 1994, when as a photographer for a newspaper, he covered a powerful interview of a Sioux Falls World War II veteran.

As World War II veterans grow older, it is important to collect their stories, as Greg did, before they are lost. There are 19 million war veterans living in the United States, and every day we lose 1,600 of them. We will be able to honor their services for generations to come by collecting their memories for the Veterans' History Project and preserving them at the Library of Congress.

The Veterans' History Project, which Congress unanimously approved on October 27, 2000, honors our Nation's war veterans and those who served in support of them, by creating a legacy of recorded interviews and other documents chronicling veterans' wartime experiences. The project encompasses veterans of World War I, World War II, Korea, Vietnam, Operation Desert Storm, Operation Enduring Freedom, and Operation Iraqi Freedom.

All recordings of personal histories and all documents submitted to the Veterans' History Project will be archived in the National History Collection at the Library of Congress' American Folklife Center. These important artifacts will create a comprehensive, searchable catalog of veterans' stories, thus allowing current and future generations to access them.

I congratulate Greg Latza on his efforts. Blue Stars pays a great tribute to South Dakota's contributions to World War II. Like the Veterans' History Project, it serves as an excellent example of the importance of honoring and remembering America's veterans.●

HONORING GUNNERY SERGEANT CLESTER LENOIR

● Mr. BREAUX. Mr. President, I honor not only a fellow Louisianian, but also an extraordinary Marine, Clester Lenoir. Clester Lenoir is retiring after serving more than 20 years of service in the United States Marine Corps. He was raised in Baton Rouge, LA, where he graduated from Tara High School, Baton Rouge in 1984.

Gunnery Sergeant's first duty station was in his home state of Louisiana where he served with the Fourth Marine Division in New Orleans. He was assigned as the Status of Resources and Training System Noncommissioned Officer, a staff sergeant's billet. He was tasked to assist and inspect various reserve units around the Nation. He excelled at this assignment and was awarded a Navy/Marine Corps Achievement medal for his meritorious service.

Lenoir has served as an Administrative Assistant in the Marine Corps' Office of Legislative Affairs during his last 3 years of service. That office supports Members of Congress, and their committees on matters relating to the Marine Corps and the security of our Nation.

Lenoir has carried the Marine Corps' message to these hallowed halls, providing Members the information necessary to determine how best to equip, maintain and support the United States Marine Corps and ultimately provide and ensure our Nation's security. During this period, he has been responsible for directing, and organizing numerous congressional events in the metropolitan DC area. His attention to detail in making these very important events logistically successful is noteworthy.

Lenoir has made a lasting contribution in the capability of today's Marine Corps and the future shape of tomorrow's Corps. His superior performance of duties highlight the culmination of more than 20 years of dedicated and honorable Marine Corps service. He achieved five Navy/Marine Corps Achievement medals for his exemplary service throughout his 20-year career. By his exemplary professional competence, sound judgment, and total dedication to duty, he has reflected great credit upon himself and has always upheld the highest traditions of the United States Marine Corps and the United States Naval Service.

I am proud that Clester Lenoir joined the Marine Corps from the great state of Louisiana, seeking to protect and serve our great Nation. He has done so with great distinction. On behalf of the U.S. Senate, I wish to extend my heartfelt thanks and gratitude. May he have many more years of continuing success as he pursues other interests outside of the United States Marine Corps.●

IN MEMORY OF JUDGE RICHARD SHEPPARD ARNOLD

● Mrs. CLINTON. Mr. President, on September 23, our country lost one of its greatest jurists, and Arkansas lost one of its greatest native sons, Richard Sheppard Arnold.

Judge Arnold was born into a legal family in 1936 in Texarkana, TX. His maternal grandfather, Morris Sheppard, served in this body from Texas from 1913 until 1941, and his paternal grandfather, William H. Arnold, was a circuit judge. His father, Richard Lewis Arnold, was a leading expert in public unitlies law. Judge Arnold graduated first in his class from Yale University and Harvard Law School, and in 1960 and 1961, he served as law clerk to one of our Nation's greatest Supreme Court Justices, the late William J. Brennan. Judge Arnold served in private practice, ran for Congress, served as legislative advisor to both Governor and Senator Dale Bumpers, and spent more than 25 years on the Federal district and appellate benches. Since 1980, Judge Arnold served on the 8th U.S. Circuit Court of Appeals.

Richard Arnold was one of our great legal writers with more than 700 opinions over the course of his legal career. Just this year, the American Society of Writers on Legal Subjects awarded him its lifetime achievement award, only the second in its 50-year history. His more prominent opinions advanced civil rights and voting rights, and in March of this year, as part of a three-judge panel, his 22-page opinion upheld a lower court ruling releasing the Little Rock School District from more than 40 years of Federal court supervision of its desegregation efforts.

Judge Richard Arnold was a friend to President Clinton and me and we join his wife, Kay, and his two daughters, Janet and Lydia, along with his brother, Judge Morris ''Buzz'' Arnold, in mourning his passing. He will be remembered for his remarkable life, his unequalled brilliance, character, common sense, deep religious faith, and devotion to the law. We have lost a cherished friend, and our Nation has lost a champion of justice.●

COLONEL JOHN SCHORSCH

● Mr. ALLARD. Mr. President, I rise today to express my appreciation for the outstanding service of Colonel John Schorsch, or ''Rusty'' as we all call him.

Liaison chiefs are chosen because of their expertise, their ability to manage personnel in a pressure-packed environment, and their discernment in making tough decisions in difficult situations. They generally have a well-rounded education, significant command experience, and a long track record of effectiveness. Simply put, service liaison chiefs are the best of the best.

Colonel Schorsch is certainly one of the best. He is graduate of the United States Military Academy and the U.S. Naval War College. He has been a platoon commander, a company commander, a battalion commander, and a brigade commander. Colonel Schorsch has served as an aide-de-camp and as the joint staff action officer and planner. Perhaps more importantly, Rusty served as the Army aide to two Presidents: President Bush and President Clinton.

I have traveled with Rusty many times and have greatly enjoyed the opportunity to get to know him. He is engaging, outgoing, and disarming. His stories about life in the Army often take on epic proportions and can make the most dour individual break into a grin.

Yet what separates Colonel Schorsch from most is his character. He is completely unflappable. He is undaunted by challenges. He is relentless in pursuit of a goal and absolutely determined to complete an assigned task. To Rusty, no detail is too small, no assignment too menial, and no task too trivial.

When things become difficult, Rusty remains undeterred. He does not give in. He does not cave. Indeed, whenever he has encountered seemingly unsurmountable problems, Rusty's philosophy has always been to step it up, and hold nothing back.

I have watched him time and time again tackle with the equal efficiency the largest of problems and the smallest of details. I have seen him persevere and overcome obstacles. And, during these challenges, he does not complain; and he does not flinch; he does not give in.

The Army has been fortunate to have a soldier like Rusty as its liaison chief here in the Senate. He has demonstrated to me and to many other Members the caliber and quality of Army officers. I know I speak for many of my fellow Members in expressing our disappointment in his departure. Yet I know that the Army has many good things planned for Rusty and that our country will benefit from his experience elsewhere.

With this in mind, I sincerely appreciate Colonel Schorsch's service to me and the rest of the Senate. I wish him the best in the future. He will surely be missed.●

HONORING CHUCK GROTH

● Mr. JOHNSON. Mr. President, on behalf of Senator TOM DASCHLE and myself, we publicly honor and recognize Chuck Groth. For more than 30 years, Chuck Groth has been telling the story. Whether it's about the trials and tribulations of farm families or the status of Federal policy that will impact agriculture, more than 10,000 South Dakota farm families have relied on Chuck's insightful presentation in their monthly edition of the Union Farmer.

The Union Farmer is the voice of the South Dakota Farmer's Union, covering the extensive interests of the organization's varied membership.

Chuck Groth has been responsible for more than 360 editions of the Union Farmer—an extraordinary record of longevity. Throughout the ups and downs of the industry, Chuck reported the news that captured the current state of affairs. He helped elevate the public dialogue about important issues, and made people more aware of the plight of South Dakota's farm and ranch families.

During the mid-1980s, America's farm families faced their darkest days since the Great Depression of the 1930s. Chuck helped organized thousands of Farmer's Union members to call upon their elected officials to provide assistance to rural America. The effort led to a historic act that took all 105 members of the South Dakota State Legislature to Washington, DC, in 1985 to lobby Congress about the needs of rural America.

Chuck has helped organize more than 50 fly-ins to Washington, DC, trips that helped keep farm policy at the forefront of the congressional agenda. Agriculture needed to have its story told, and Chuck was the wordsmith that made that possible.

I ask my colleagues to join Senator TOM DASCHLE and myself in saluting Chuck Groth for his distinguished career and commitment to our Nation's family farmer.●

TRIBUTE TO PAT CHRISTEN

• Mr. KENNEDY. Mr. President, this evening in San Francisco, a grateful community is coming together to honor one of the Nation's most able and respected leaders in the fight against HIV and AIDS—Pat Christen. For the past 15 years, Pat has served as executive director of the San Francisco AIDS Foundation. Tonight, she will end her tour of service to spend more time with her family particularly with her two young daughters, Morgan and Madison.

Since 1982, the San Francisco AIDS Foundation has been at the forefront of the ongoing battle against HIV and AIDS. Pat was there in the beginning, when a mysterious and deadly disease was taking so many of the San Francisco community's young people. She manned the agency's hotline as a volunteer, serving as an outlet and a resource for those facing the disease. From this caring and compassionate beginning, Pat rose to become a courageous and visionary leader against HIV.

In San Francisco, Pat saw thousands of young people in her community die needlessly because they could not obtain the proper medical care and support they needed in order to live and fight the disease. At the foundation, she helped to shape San Francisco's response to prevention and treatment of AIDS. She also took the battle to Congress and had a vital role in the development and passage of the Federal Ryan White CARE Act.

In her familiar grassroots style, Pat and the foundation galvanized other like-minded organizations around the country to help develop the CARE Act, and to provide the muscle and hustle that was necessary to galvanize action in Congress. Today, the Ryan White Act provides over $2 billion a year in HIV care and treatment to those most in need. It brings new hope and the promise of a life of dignity for tens of thousands of people living with HIV in cities and communities throughout the nation.

Under Pat's leadership, the foundation recently joined the global battle against HIV and AIDS. In December 2000, the Pangaea Global AIDS Foundation was launched in an effort to expand HIV antiretroviral treatment and care in the developing world. In just a few short years, Pangaea has become a key strategic resource in this international effort, particularly in Asia and Africa.

In October 2003, the Government of South Africa announced an unprecedented program to provide HIV antiretroviral drugs to the 5 million people in that nation suffering from HIV and AIDS. Pat and other Pangaea staff were part of a small technical support team working intensively behind the scenes with the South African Government as it prepared its national treatment initiative. Without Pat's skillful leadership, it might never have happened. Pangaea is now helping to make similar urgently needed relief available in Uganda and China.

Over the course of her career, Pat has demonstrated her willingness to speak out, to challenge others to become involved, to show compassion and understanding when others reacted with anger and vindictiveness. Above all, she had an extraordinary ability to do what others thought could not be done. To so many of us who admired her and worked with her, she became the symbol of the saying in World War II, ''the difficult we do immediately; the impossible takes a little longer.''

We all owe an enormous debt of gratitude to Pat for her inspiring leadership and her dedication to bring about the day when everyone everywhere with HIV will be able to live a long and productive life with dignity. Pat, thank you very, very much for all you have done so well across the years, and for the enormous difference you have made in the lives of so many persons in our own country and throughout the world.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:21 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1537. An act to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

S. 1663. An act to replace certain Coastal Barrier Resources System maps.

S. 1687. An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1778. An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2180. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

2363. An act to revise and extend the Boys and Girls Clubs of America.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2408. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges.

H.R. 2771. An act to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.R. 4115. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

The message also announced that the House disagree to the amendment of the Senate to the bill (H.R. 4850) making appropriation for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. Frelinghuysen, Mr. Istook, Mr. Cunningham, Mr. Doolittle, Mr. Weldon of Florida, Mr. Culberson, Mr. Young of Florida, Mr. Fattah, Mr. Pastor, Mr. Cramer, and Mr. Obey.

The message further announced that the House has passed the following bills, without amendment:

S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

S. 1421. An act to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

S. 1814. An act to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

S. 2319. An act to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

The message also announced that the House has passed the following bills, in

which it requests the concurrence of the Senate:

H.R. 854. An act to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

H.R. 1630. An act to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

H.R. 2129. An act to direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes.

H.R. 2960. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project.

H.R. 3391. An act to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

H.R. 3982. An act to direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

H.R. 4389. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

H.R. 4593. An act to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

H.R. 4817. An act to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads.

H.R. 5202. An act to clarify the treatment of supplemental appropriations in calculating the rate for operations applicable for continuing appropriations for fiscal year 2005.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 76. Concurrent resolution recognizing that November 2, 2003, shall be dedicated to ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 304. Concurrent resolution expressing the sense of Congress regarding oppression by the Government of the People's Republic of China of Falun Gong in the United States and in China.

H. Con. Res. 415. Concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

H. Con. Res. 496. Concurrent resolution expressing the sense of Congress with regard to providing humanitarian assistance to countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan, and Jeanne.

The message further announced that the House has passed the following bills, with amendments:

S. 144. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

S. 1521. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

The message also announced that pursuant to section 104(c)(1)(I) of the Consolidated Appropriations Act, 2004 (Public Law 108–199), and the order of the House of December 8, 2003, the Speaker and Minority Leader of the House, with the Majority and Minority Leaders of the Senate, jointly appoints Mr. Melville Peter Mcpherson of East Lansing, Michigan, Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program.

The message further announced that pursuant to section 2 14(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), the Minority Leader appoints Douglas H. Palmer of Trenton, New Jersey to the Election Assistance Commission Board of Advisors, to fill the remainder of the term of Willie L. Brown, Jr.

The message also announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), the order of the House of December 8, 2003, and upon the recommendation of the Majority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term: Ms. Norine Fuller of Arlington, Virginia.

The message further announced that pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), the Speaker appoints the following members on the part of the House of Representatives, to the Commission on Systemic Interoperability: Mr. Gary A. Mecklenburg of Chicago, Illinois and Dr. Don E. Detmer of Crozet, Virginia.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9596. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations'' (RIN 1550–AB48) received on October 4, 2004; to the Committee on Banking, Housing , and Urban Affairs.

EC–9597. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Consolidation of Asset-backed Commercial Paper Programs and Other Related Issues'' (RIN 1550–AB79) received on October 4, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9598. A communication from the Deputy Assistant Administrator for Operations, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Sea Turtle Requirements: Coulon TED Extended Flap Modification'' (RIN 0648–AS02) received on October 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9599. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area (BSAI)'' received on October 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9600. A communication from the Chairman, Interagency Coordinating Committee on Oil Pollution Research, Coast Guard, transmitting, pursuant to law, a report relative to the Committee's activities carried out during the current two-fiscal year period; to the Committee on Commerce, Science, and Transportation.

EC–9601. A communication from the Secretary of Energy, transmitting, pursuant to law, transmitting, pursuant to law, a report relative to the Department of Energy's competitive sourcing efforts; to the Committee on Energy and Natural Resources.

EC–9602. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Department's Alternative Fuel Vehicle (AFV) program for fiscal year 2003; to the Committee on Energy and Natural Resources.

EC–9603. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled ''U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects''; to the Committee on Finance.

EC–9604. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled ''Andean Trade Preference Act (ATPA)—Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution''; to the Committee on Finance.

EC–9605. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''2005 Per Diem Rates'' (Rev. Proc. 2004–60) received on October 4, 2004; to the Committee on Finance.

EC–9606. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Payments That Do Not Qualify as Qualified Transportation Fringe Benefits'' (Rev. Rul. 2004–98) received on October 4, 2004; to the Committee on Finance.

EC–9607. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: 401(k) Accelerated Deductions'' (UIL9300 .01–01) received on October 4, 2004; to the Committee on Finance.

EC–9608. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Offer to Resolve Issues Arising From Certain Tax, Withholding, and Reporting Obligations'' (Rev. Proc. 2004–59) received on October 4, 2004; to the Committee on Finance.

EC–9609. A communication from the Chief Executive Officer, Corporation for National Community Service, transmitting, pursuant

to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–9610. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Education for the six-month period ending March 31, 2004; to the Committee on Governmental Affairs.

EC–9611. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Presidential Inaugural Committee Reporting and Prohibition on Accepting Donations from Foreign Nationals'' received on September 29, 2004; to the Committee on Rules and Administration.

EC–9612. A communication from the Director, Regulations Management, Veterans' Health Administration, transmitting, pursuant to law, the report of a rule entitled ''Priorities for Outpatient Medical Services and Inpatient Hospital Care'' (RIN 2900–AL39) received on October 4, 2004; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 2608. A bill to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes (Rept. No. 108–385).

By Mr. LOTT, from the Committee on Rules and Administration, without amendment:

S. Res. 445. A resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Ms. COLLINS, Mr. DURBIN, Mr. LAUTENBERG, Mr. JOHNSON, and Mrs. MURRAY):

S. 2887. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. EDWARDS, Mr. LEVIN, and Mr. KENNEDY):

S. 2888. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself and Ms. LANDRIEU):

S. 2889. A bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2890. A bill to modify the boundary of Lowell National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 2891. A bill to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Vermont; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. BOND):

S. 2892. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI:

S. 2893. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2894. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TALENT (for himself and Mr. BOND):

S. 2895. A bill to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month; considered and passed.

By Mr. BURNS (for himself and Mr. BREAUX):

S. 2896. A bill to modify and extend certain privatization requirements of the Communications Satellite Act of 1962; considered and passed.

By Mr. LEVIN (for himself, Mr. HATCH, Mr. BIDEN, and Mr. KENNEDY):

S. 2897. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Committee on the Judiciary.

By Mr. FITZGERALD:

S. 2898. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. REID, and Mr. TALENT):

S. Res. 447. A resolution expressing the sense of the Senate that the President of the United States should exercise his Constitutional Authority to pardon posthumously John Arthur ''Jack'' Johnson for Mr. Johnson's racially-motivated 1913 conviction that diminished his athletic, cultural, and historic significance, and unduly tarnished his reputation; considered and agreed to.

By Mr. BROWNBACK (for himself and Mr. ROBERTS):

S. Con. Res. 140. A concurrent resolution urging the President to withdraw the United States from the 1992 Agreement on Government Support for Civil Aircraft with the European Union and immediately file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of injury to, and adverse effects on, the commercial aviation industry of the United States; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 623

At the request of Mr. WARNER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1945

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 1945, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1968

At the request of Mr. ENZI, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1968, a bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes.

S. 2077

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2425

At the request of Mr. COCHRAN, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2522

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2522, a bill to amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for other purposes.

S. 2553

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2706

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2706, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 2735

At the request of Mr. MILLER, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2735, a bill to require a study and report regarding the designation of a new interstate route from Augusta, Georgia to Natchez, Mississippi.

S. 2764

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2786

At the request of Mr. BAYH, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2786, a bill to strengthen United States trade enforcement laws.

S. 2793

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2793, a bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2821

At the request of Ms. SNOWE, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2821, a bill to reauthorize certain programs of the Small Business Administration, and for other purposes.

S. 2881

At the request of Mr. VOINOVICH, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2881, a bill to clarify that State tax incentives for investment in new machinery and equipment are a reasonable regulation of commerce and not an undue burden on interstate commerce, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 271

At the request of Mr. COLEMAN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 408

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

AMENDMENT NO. 3838

At the request of Mr. CONRAD, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Montana (Mr. BURNS) were added as cosponsors of amendment No. 3838 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3888

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3888 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3890

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3890 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3891

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3891 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3893

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3893 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3894

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3894 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3943

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3943 proposed to H.R. 4278, a bill to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Ms. COLLINS, Mr. DURBIN, Mr. LAUTENBERG, Mr. JOHNSON, and Mrs. MURRAY):

S. 2887. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to rise today with Senators SNOWE, KENNEDY, COLLINS, MURRAY, DURBIN, LAUTENBERG, CLINTON and JOHNSON to introduce legislation which would supply greatly needed support to

college students struggling to balance their roles as parents with their roles as students. The Child Care Access Means Parents in School Act, CCAMPIS, would increase access to, support for, and retention of low-income, nontraditional students who are struggling to complete college degrees while caring for their children.

The typical college student is no longer an 18 year old recent high school graduate. According to a 2002 study by the National Center for Education Statistics, only 27 percent of undergraduates meet the ''traditional'' undergraduate criteria of earning a high school diploma, enrolling full-time, depending on parents for financial support and not working or working part-time. This means that 73 percent of today's students are considered nontraditional in some way. Clearly, nontraditional students—older students with children and various job and life experiences—are filling the ranks of college classes. Why? Because they recognize the importance of college to future success. It is currently estimated that a full-time worker with a bachelor's degree earns about 60 percent more than a full-time worker with only a high school diploma. This amounts to a lifetime gap in earnings of more than $1 million.

Today's nontraditional students face barriers unheard of by traditional college students of earlier years. Many are parents and must provide for their children while in school. Access to affordable, quality and convenient child care is a necessity for these students. But obtaining the child care that they need is often difficult because of their limited income and nontraditional schedules, compounded by declining assistance for child care through other supports. Campus based child care can fill the gap. It is conveniently located, available during the right hours, and of high quality and lower cost. Unfortunately, it is unavailable at many campuses. Even when programs do exist, they are often available to only a fraction of the eligible students. That is where the Dodd-Snowe CCAMPIS Act comes in.

The Dodd-Snowe CCAMPIS Act increases and expands the availability of campus based child care in three ways. First, it raises the minimum grant amount from $10,000 to $30,000. For most institutions of higher education, $10,000 has proven too small relative to the effort to complete a Federal application. Grant offices on campuses often pass small grants over in favor of those that appear more cost effective.

Second, the Dodd-Snowe CCAMPIS Act ensures that a wider range of students are able to access services. Present language defines low-income students as students eligible to receive a Federal Pell Grant. This language excludes graduate students, international students, and students who may be low-income but make slightly more than is allowed to qualify for Pell grants. CCAMPIS will open eligibility for these additional populations.

Third, the CCAMPIS Act raises the program's current authorization level from $45 million to $75 million so that we not only expand existing programs, we create new ones.

Research demonstrates that campus based child care is of high quality and that it increases the educational success of both parents and students. Furthermore, recipients of campus based child care assistance who are on public assistance are more likely to never return to welfare and to obtain jobs paying good wages.

Currently, there are approximately 1,850 campus based child care programs but over 4,000 colleges and universities eligible to participate in the CCAMPIS program. Currently, CCAMPIS funds only 343 programs in 25 states and the District of Columbia. Meanwhile, the number of nontraditional students across America is increasing. As these numbers increase, the need for campus based child care will be increasingly unmet.

This is a modest measure that will make a major difference to students. It will offer them new hope for starting and staying in school. I am hopeful that it can be considered and enacted as part of the Higher Education Act. I look forward to working with my colleagues to move this important measure forward.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2887

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

SECTION 1. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL PROGRAM.

(a) MINIMUM GRANT.—Section 419N(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070e(b)(2)(B)) is amended by striking ''$10,000'' and inserting ''$30,000''.

(b) DEFINITION OF LOW-INCOME STUDENT.—Section 419N(b)(7) of such Act is amended to read as follows:

''(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term 'low-income student' means a student who—

''(A) is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made;

''(B) would otherwise be eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made, except that the student fails to meet the requirements of—

''(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

''(ii) section 484(a)(5) because the student is in the United States for a temporary purpose; or

''(C) is from a family with an income that is less than 275 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 419N(g) of such Act is amended by striking ''$45,000,000 for fiscal year 1999'' and inserting ''$75,000,000 for fiscal year 2005''.

Ms. SNOWE. Mr. President, I am extremely pleased to join my colleague from Connecticut, Senator DODD, to introduce the Child Care Access Means Parents in School Act of 2004. Senator DODD and I have worked together to ensure access to quality child care, and this bill represents the next step in our shared commitment to this important issue. This legislation provides grants to colleges in order to provide child care for low-income students.

Countless college students have recently returned to college. At this time, we should remind ourselves that many Americans face obstacles that prevent them from participating in higher education. The absence of affordable and accessible child care is, unfortunately, one such obstacle.

For many parents with young children, the availability of on-campus child care services is central to their ability to attend college. Campus-based child care is conveniently located, available at the hours that fit students' schedules and often available at a lower cost than community-based child care centers. Student parents rate access to campus-based child care as an important factor affecting their college enrollment. Unfortunately, such services are often in very short supply, particularly for low-income parents who may find the cost of existing services prohibitive.

Higher education is becoming ever more crucial to getting a job in today's global job market. The majority of new jobs require education beyond high school. Getting the skills necessary to meet the demands of today's marketplace simply requires higher and higher levels of educational achievement. For many low-income students who are parents, the availability of campus-based child care is key to their ability to receive a higher education and thus achieve the American dream. Student parents are more likely to remain in school, and to graduate sooner and at a higher rate if they have campus-based child care. Child care services are particularly critical for older students who choose to go back to school to get their degree or to improve their skills through advanced education. Children placed in campus-based child care also reap numerous benefits, given its high quality. In fact, children in high-quality child care exhibit higher earnings as adults, higher rates of secondary school graduation, lower rates of teen pregnancy, and a reduced need for special education or costly social services.

Research shows that programs such as the High/Scope Perry Preschool Program in Ypsilanti, Michigan and the Chicago Child-Parent Centers demonstrate overwhelmingly that quality child care is a wise investment and is cost efficient. According to analysis of these programs the public saves $7 for every $1 invested in child care. These savings counted only the benefits to the public at large—in reduced costs of crime, welfare and remedial education

and in taxes paid when the preschoolers became adult workers—without even taking into account participants' increased earnings or the increased contribution to economic growth those earnings represent.

The Child Care Access Means Parents in School Act of 2004 will amend title IV of the Higher Education Act to help provide campus-based child care to low-income parents seeking a college degree. Under the bill, the Secretary of Education will award 3-year grants to institutions of higher education to support or help establish a campus-based child care program serving the needs of low-income student parents. The Secretary will award $75 million in grants—equal to 1 percent of total Pell grant funding—based on an application submitted by the institution, and the grant amount will be linked to the institution's Pell grant funding level. This bill ensures that a wide range of low-income students are able to access child care services.

Under the bill low-income students are defined as students eligible to receive a Federal Pell Grant, or students who would be eligible to receive a Pell grant if they were not in the United States temporarily, and students who are from a family with an income that is less than 275 percent of the poverty line (as defined by the Office of Management and Budget). Students typically qualify for Pell grants if their income is under $30,000 per year and in Maine, this means approximately 17,000 students could have access to high quality child care services while they earn their college degree. This bill will make a true difference in the lives of many low-income students who need child care to attend school.

This bill raises the minimum CCAMPIS grant to $30,000 and authorizes $75 million as research has found that the existing minimum grant of $10,000 is often too small relative to the effort for many institutions to complete a federal application. We have found that grant offices on campuses often pass small grants over in favor of those that are most cost effective.

Because the bill we are introducing today will help bring the American dream within the reach of American parents who need child care in order to attend college, I urge my colleagues to support this important legislation which will truly make a difference in the lives of many American parents.

By Mr. DODD (for himself, Mr. EDWARDS, Mr. LEVIN, and Mr. KENNEDY):

S. 2888. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce, along with Senators EDWARDS, LEVIN and KENNEDY, the Youth Service Scholarship Act. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 a year to high school students and undergraduates who perform community service.

A recent study titled Community Service and Service Learning in U.S. Public Schools reveals that 66 percent of public schools involve students in community service. This means that approximately 54,000 public schools in America currently engage about 13.7 million students in community service each year. Other studies have shown that nearly 84 percent of high school students participate in volunteer activities either in or out of school, and two-thirds of college students have recently participated in volunteer activities.

The Youth Service Scholarship Act is dedicated to assist low-income students who dedicate a significant portion of their time to volunteer service with money for college. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 to high school students who perform over 600 hours of community service in two years. In order to be considered, high school applicants must maintain a 2.0 grade point average, submit character recommendations, and write an essay on the nature of their community service. Additional money is available if the student continues to participate in a significant amount of community service once they are in college.

Volunteerism not only brings support and services to communities in need, it provides significant benefits to the students who participate. Research has shown that students who volunteer are 50 percent less likely to use drugs and alcohol, or engage in destructive behavior. Additionally, students who volunteer are more likely to receive good grades, be philanthropic, graduate, and be interested in going to college.

In the 21st Century, higher education is not a luxury, it is a necessity. For many of our low-income youth, finding money to pay for college is an obstacle to enrollment. This scholarship program provides aid to motivated and inspirational youth.

I urge my colleagues to join me in supporting the Youth Service Scholarship Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2888

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Youth Service Scholarship Act of 2004''.

SEC. 2. FINDINGS.

Congress finds that—

(1) young people under 18 years of age are now our Nation's most impoverished age group, with 1 of every 5 living in poverty, a higher proportion than in 1968, and the percentage of minority children living in poverty is about twice as high;

(2) more than 1 of 4 families is headed by a single parent and the percentage of such families has risen steadily over the past few decades, rising 13 percent since 1990;

(3) there is a need to engage youth as active participants in decisionmaking that affects their lives, including in the design, development, implementation, and evaluation of youth development programs at the Federal, State, and community levels;

(4) existing outcome driven youth development strategies, pioneered by community-based organizations, hold real promise for promoting positive behaviors and preventing youth problems;

(5) formal evaluations of youth development programs have documented significant reductions in drug and alcohol use, school misbehavior, aggressive behavior, violence, truancy, high-risk sexual behavior, and smoking;

(6) compared to youth in the United States generally, youth participating in community-based organizations are more than 26 percent more likely to report having received recognition for good grades than youth in the United States generally and nearly 20 percent more likely to rate the likelihood of their going to college as very high; and

(7) the availability and use of Federal resources can be an effective incentive to leverage broader community support to enable local programs, activities, and services to provide the full array of developmental core resources, remove barriers to access, promote program effectiveness, and facilitate coordination and collaboration within the community.

SEC. 3. ESTABLISHMENT OF PROGRAM.

Subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) is amended—

(1) by redesignating section 407E as section 406E; and

(2) by adding at the end the following:

"Chapter 4—Public Service Incentives

"SEC. 407A. PURPOSE.

''The purpose of this chapter is to establish a scholarship program to reward low-income students who have, during high school, and who continue, during college, to make significant public service contributions to their communities.

"SEC. 407B. SCHOLARSHIPS AUTHORIZED.

''(a) QUALIFICATIONS FOR SCHOLARSHIPS.—The Secretary is authorized to award a scholarship to enable a student to pay the cost of attendance at an institution of higher education during the student's first 4 academic years of undergraduate education, if the student—

''(1) in order to be eligible for the first year of such scholarship, performed not less than 300 hours of qualifying public service during each of 2 academic years of the student's secondary school enrollment;

''(2) in order to be eligible for the second or any subsequent year of such scholarship, performed not less than 300 hours of qualifying public service during the academic year of postsecondary school attendance preceding the academic year for which the student seeks such scholarship;

''(3) was eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1721 et seq.);

''(4) is eligible to receive Federal Pell Grants for the year in which the scholarships are awarded, except that a student shall not be required to comply or verify compliance with section 484(a)(5) for purposes of receiving a scholarship under this chapter; and

''(5) otherwise demonstrates compliance with regulations prescribed by the Secretary under section 407G.

''(b) DEFINITION OF QUALIFYING PUBLIC SERVICE.—For purposes of subsection (a), the

term 'qualifying public service' means service that would be eligible for treatment as community service under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or under the Federal work-study program under part C.

"SEC. 407C. AMOUNT OF SCHOLARSHIP.

''(a) AMOUNT OF AWARD.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), the amount of a scholarship awarded under this chapter for any academic year shall be equal to $5,000.

''(2) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of students selected under section 407D for an academic year, funds available to carry out this chapter for the academic year are insufficient to fully fund all awards under this chapter for the academic year, the amount of the scholarship paid to each student under this chapter shall be reduced proportionately.

''(b) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student's cost of attendance.

"SEC. 407D. SELECTION OF SCHOLARSHIP RECIPIENTS.

''The Secretary shall designate a panel to select students for the award of scholarships under this chapter. Such panel shall be composed of 9 individuals who are selected by the Secretary and shall be composed of equal numbers of youths, community representatives, and teachers. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

"SEC. 407E. APPLICATIONS.

''Any eligible student desiring to obtain a scholarship under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require. Such application shall—

''(1) demonstrate that the eligible student is maintaining satisfactory academic progress and is achieving a grade point average of at least 2.0 (on a scale of 4), or its equivalent;

''(2) include a recommendation from—

''(A) the supervisor of the community service project of the applicant; and

''(B) another individual not related to, but familiar with the character of the applicant such as a teacher, coach, or employer; and

''(3) include an essay by the applicant on the nature of the community service performed by the applicant.

"SEC. 407F. PROGRAM DISSEMINATION AND PROMOTION.

''(a) DEVELOPMENT AND DISSEMINATION.—The Secretary shall develop and disseminate to the public information on the availability of, and application process for, scholarships under this chapter.

''(b) PROMOTION.—In disseminating information about the scholarship program under this chapter, the Secretary shall—

''(1) disseminate such information directly or through arrangements with local educational agencies, public and private elementary schools and secondary schools, nonprofit organizations, consumer groups, Federal, State, or local agencies, and the media; and

''(2) at a minimum, include a description and the purpose of the scholarship program, an explanation of how to obtain an application, and a description of the application process and procedures.

"SEC. 407G. REGULATIONS.

''The Secretary shall prescribe such regulations as may be necessary to carry out this chapter.

"SEC. 407H. EVALUATION.

''Not earlier than 2 years after the first fiscal year for which funds are made available under this chapter, the Secretary shall prepare and submit to Congress an evaluation of the effectiveness of the program under this chapter. Such evaluation shall include—

''(1) an evaluation of the demand, by grade level and types of community service sites, for the scholarships provided under this chapter;

''(2) general data on the background of program participants and the types of service performed; and

''(3) an itemization of the costs of administering the program under this chapter.

"SEC. 407I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $5,000,000 for fiscal year 2005 and such sums as are necessary for each of the 3 succeeding fiscal years.''.

By Mr. DODD (for himself and Mr. BOND):

S. 2892. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Children and Family HIV/AIDS Research and Care Act of 2004. This bipartisan legislation will address the special needs of children and youth with HIV/AIDS—needs that are too often overlooked, both domestically and internationally. This legislation recognizes the simple fact that when it comes to HIV prevention, research, care, and treatment, children and youth are not just small adults. To give them a chance for a healthy future, we must ensure that their unique needs are met.

I want to begin by thanking my good friend Senator BOND of Missouri for joining me in introducing this important legislation. Senator BOND has provided crucial support for children and for children's health. Over the years, he has been a leader in the fight to protect children from birth defects and developmental disabilities. He has also done a great deal to ensure that our nation's children's hospitals and community health centers have the resources they need to continue to provide essential care to children and families. I am very pleased to work with him to move this legislation forward.

Children's growing bodies are especially susceptible to the rapid advancement of HIV infection. Because their immune systems are still immature, the disease typically progresses more rapidly and differently in children than in adults. For example, children with HIV infection are more prone to neurological abnormalities and certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to talk.

While research has definitively shown that initiating drug treatment in children in a timely manner promotes normal growth and development, and prolongs life, treating children with HIV/AIDS presents particular challenges. Appropriately formulated and dosed HIV/AIDS drugs are urgently needed to ensure that children receive optimal care. Currently, liquid formulations that young children can swallow are not always readily available. In addition, pediatric dosing and safety information for these powerful drugs is often lacking, particularly for younger children. This lack of information puts children at risk; too much medication can be toxic and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance, a particularly serious concern for children who will need to use these medications for years, if not decades.

Appropriate HIV/AIDS care and treatment for children and youth also requires that special attention be paid to their social development needs. Children and youth have unique concerns regarding disclosure and stigma that may be exacerbated by frequent absences from school and social activities, and the onset of sexual maturity. Working with schools and other social and community institutions is imperative to promoting a sense of normalcy. Because children are not typically medical decision-makers, developing long-term care partnerships with parents and other caregivers is also crucial to successful care and treatment. At the same time, maximizing each child's own ability to take active participation in different aspects of his or her own care can increase a child's sense of ownership over treatment, improving adherence and overall health.

By reauthorizing and expanding Title IV of the Ryan White CARE Act this legislation will help to ensure that the unique care and treatment needs of children are addressed. This program is a lifeline for more than 53,000 women, children, and youth affected by HIV/AIDS served annually by Title IV-funded projects. Through 91 grants in 35 states, the District of Columbia, Puerto Rico and the Virgin Islands, Title IV projects provide medical care, case management, support services, mental health, transportation, child care, and other crucial services to families affected by HIV/AIDS. Title IV is the smallest of the four main titles of the Ryan White CARE Act, yet reaches the highest proportion of minorities.

Key to the success of Title IV projects is the model of ''family-centered care.'' This model of care treats the whole family as the client, whether several family members are infected by HIV, or just a parent or child. The family-centered care model is crucial to developing strong partnerships between consumers and providers, leading to better health outcomes for women,

children, and youth. By allowing affected family members to receive services, as well as the infected individuals, Title IV projects promote health at the family level, thereby prolonging life, improving quality of life, and saving money by keeping people out of the hospital.

I would like to take a moment to recognize the work done by the Children, Youth and Family AIDS Network of Connecticut, which provides Title IV services to more than 500 children, youth, women, and families affected by HIV/AIDS in my home state. I have heard from many of these individuals about just how important these services are to their quality of life.

While recommitting the Health Resources and Services Administration (HRSA) to family-centered care and the unique work of Title IV, this legislation will also expand the innovative strategies Title IV projects have used to prevent mother-to-child HIV transmission. Since 1994, when the administration of preventive drug interventions was shown to significantly reduce perinatal HIV transmission, the number of newborns infected with HIV has decreased dramatically. Yet mother-to-children transmission does continue to occur, largely due to missed opportunities for identifying HIV-positive pregnant women and providing the supportive services needed to ensure adherence to recommended treatment regimens. We propose to fund demonstration grants to assess the effectiveness of two strategies in reducing mother-to-children transmission: (1) Increasing routine, voluntary HIV testing of pregnant women and (2) increasing access to prenatal care, intensive case management, and supportive services for HIV-positive pregnant women.

In addition, this bill will encourage research into key care and treatment questions affecting the pediatric populations. These include: the long-term health effects of preventive drug regimens on HIV-exposed children; the long-term health, psycho-social, and prevention needs for children and adolescents perinatally HIV-infected; the transition to adulthood for HIV-infected children; and safer and more effective treatment options for infants, children, and adolescents with HIV disease.

Since history suggests that a vaccine may prove to be the most effective, affordable, long-term approach to stopping the spread of HIV, this legislation will also ensure that children are not an afterthought when it comes to the development of an HIV vaccine. Currently, some of the populations hardest hit by the pandemic—infants and youth—are at risk of being left behind in the search for an effective vaccine. Because we cannot assume that a vaccine tested in adults will also be safe and effective when used in pediatric populations, it will be important to ensure that promising vaccines are tested in infants and youth as early as is medically and ethically appropriate. Failure to begin planning for the inclusion of these groups in clinical trials could mean significant delays in the availability of a pediatric HIV vaccine, at the cost of countless thousands of lives. This legislation will ensure that we begin now to address the logistical, regulatory, medical, and ethical issues presented by pediatric testing of HIV vaccines so that children can share in the benefits of any advances in vaccines research.

I want to thank several organizations for lending their expertise to the development of this legislation, in particular the Elizabeth Glaser Pediatric AIDS Foundation, the AIDS Alliance for Children, Youth and Families, and the American Academy of Pediatrics, all of whom support this bill. I would also like to note that the AMS Vaccine Advocacy Coalition is endorsing this legislation. I would ask unanimous consent that three letters of endorsement be printed in the RECORD.

HIV/AIDS is the single greatest health care catastrophe facing the world today. We need to do much more to seek effective treatments and, eventually, a cure for this horrible illness. This legislation is by no means sufficient to reach that goal, but it is a step towards ensuring that children are not left behind as we make progress, and then when we do finally eradicate HIV/AIDS once and for all, children and youth are able to benefit immediately. I urge all of my colleagues to join us in support of this legislation.

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

AIDS ALLIANCE FOR CHILDREN,
YOUTH AND FAMILIES,
Washington, DC, October 5, 2004.

Senator CHRISTOPHER J. DODD,
Subcommittee on Children and Families,
Senator CHRISTOPHER S. BOND,
Subcommittee on Aging,
Washington, DC.

DEAR SENATORS DODD AND BOND:

As the national non-profit organization dedicated to women, children, youth and families affected by HIV/AIDS, we would like to extend our sincere gratitude for you introduction of the Children and Family HIV/AIDS Research and Care Act of 2004. We greatly appreciate your leadership on this issue.

The Children and Family HIV/AIDS Research and Care Act provides many important services to some of the most vulnerable populations of HIV-positive people: women, children, infants, youth and male caregivers. This bill reauthorizes Title IV of the Ryan White CARE Act, strengthens the model of family-centered care, reinforces other provisions in the CARE Act serving these groups, expands efforts to prevent mother-to-child HIV transmission (MTCT), and ensures that biomedical research efforts in the fight against HIV—especially the search for a preventive vaccine—take into consideration the special needs of pediatric populations.

Title IV of the Ryan White CARE Act is a lifeline to more than 53,000 women, children, youth, infants and male caregivers served each year. Through grants to 91 organizations across 35 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands, grantees and hundreds of subgrantees provide medical care, support services, case management, outreach and other services to thousands of families affected by HIV/AIDS. Title IV saves lives by providing treatment and care, improves quality of life by keeping people healthier, and saves money by reducing hospitalization. Title IV projects have also led the way in reducing MTCT from more than 2,000 babies born HIS-positive each year to fewer than 300. It is essential this program be reauthorized and expanded, and we appreciate your support.

In addition, biomedical research on a potential HIV vaccine and other research into antiretroviral treatment, psychosocial and prevention needs, and transitioning from pediatric into adult health care settings are all complicated research issues that must pay special attention to the needs of children. Children and youth are not merely ''mini-adults'' for whom the same treatment, care and prevention regimens apply. In terms of both physiological and psychosocial development, children and adolescents have different needs than adults, and research efforts must be attuned to these concerns. This bill would address those issues by developing a pediatric HIV vaccination testing plan and expand other research efforts relevant to infants, children, and youth affected by HIV/AIDS.

We fully endorse this legislation, and again thank you for your efforts to introduce and support it. We look forward to working with our offices to promote this bill and see its provisions enacted into law.

Sincerely,

IVY TURNBULL,
President.
DAVID C. HARVEY,
Executive Director.

ELIZABETH GLASER PEDIATRIC
AIDS FOUNDATION,
Washington, DC, October 5, 2004.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.
Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND BOND:

On behalf of the Elizabeth Glaser Pediatric AIDS Foundation, I would like to commend your leadership in introducing the Children and Family HIV/AIDS Research and Care Act of 2004. We applaud your attention to the needs of children with HIV/AIDS and offer our strong endorsement of this bipartisan legislation.

The Foundation was created more than 15 years ago to help children with HIV/AIDS and is now the worldwide leader in the fight against pediatric AIDS and other serious and life-threatening diseases affecting children. While we have made great strides in caring for children with HIV/AIDS since the early days of the pandemic, it is an unfortunate fact that their unique needs are still too often overlooked. As we have learned firsthand, children with HIV/AIDS are not small adults. To give them the best possible chance for a healthy future, it is essential that their specific prevention, care and treatment needs are met.

The Children and Family HIV/AIDS Research and Care Act of 2004 will address those needs by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. To further reduce mother-to-child transmission of HIV, this legislation will also promote routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine

research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

Thank you again for your commitment to ensuring that the unique prevention, care and treatment needs of children with HIV/AIDS are met. We appreciate the opportunity to join you in helping children to reap the benefits of the very best that science and medicine have to offer and look forward to working with you toward passage of this critical legislation.

Sincerely,

MARK ISAAC,
Vice President, Public Policy and Communication.

AIDS VACCINE ADVOCACY COALITION,
New York, NY, October 5, 2004.

Hon. CHRISTOPHER BOND,
U.S. Senate,

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND DODD: On behalf of the AIDS Vaccine Advocacy Coalition, I would like to express our strong support for the Children and Family HIV/AIDS Research and Care Act of 2004. We applaud your efforts to provide coordinated services and research with respect to children and families with HIV/AIDS.

Founded in 1995, AVAC is an internationally recognized non-profit organization committed to accelerating the ethical development and global delivery of vaccines against HIV/AIDS. We are committed to a broad, sustainable response to manage the long haul from basic science, to product development, through multiple clinical trials and, eventually and most importantly, to a safe, efficacious, accessible and affordable vaccine in use for the people and communities that need it most.

Unless issues surrounding the testing of vaccine candidates in relevant pediatric populations are addressed now, they likely won't have timely access to an effective vaccine when one is developed and licensed. That would not only deny young people of an important HIV prevention tool, but it would severely hamper global efforts to stop the AIDS pandemic.

We, therefore, strongly endorse your effort to enact legislation that prioritizes this critical research issue and calls for a plan of action to move forward. We appreciate the opportunity to join you now to ensure that the research and development process delivers treatment and prevention to the populations that need it most and look forward to working with you toward passage of this legislation.

Sincerely,

MITCHELL WARREN,
Executive Director.

Mr. BOND. Mr. President, currently, more than 3,700 children and youth under the age of 13 are living with HIV or AIDS in the United States and of the more than 40,000 Americans newly infected with HIV each year, half are young people under the age of 25 years old. When we think about this devastating virus we do not often associate it with children, especially infants or newborn babies, but the fact is this disease does not discriminate on the basis of age. It affects children in very specific and very different ways than adults.

For instance, the medical experience of children with HIV/AIDS can differ significantly from that of adults. Because children's immune systems are still immature, the disease typically progresses more rapidly in children than in adults and can have different manifestations. For example, the majorities of children with HIV have neurological abnormalities and are more susceptible to certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to walk.

Medication for young children living with HIV/AIDS can also be very different than that of an adult living with HIV/AIDS. For example, children of certain ages cannot swallow pills and require liquid formulations of life-saving HIV/AIDS drugs that are not always readily available. In addition, dosing and safety information for these powerful drugs are often strikingly different for children and adults, and for younger children, this information is typically completely missing. This lack of information puts children at risk by requiring health care providers to estimate correct dosing. Too much medication can be toxic, and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance.

Children are not just small adults and their growing bodies are especially susceptible to the rapid advancement of HIV infection. Early awareness that a child has HIV infection, combined with good care and support, can enhance survival and quality of life, which is why I am introducing, with my colleague Senator DODD, The Children Family HIV/AIDS Research and Care Act of 2004. This legislation will address those needs of children and adolescents living with HIV/AIDS by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. Moreover, this legislation will continue to work to reduce mother-to-child transmission of HIV, by promoting routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

For a young person living with HIV or AIDS there is no cure and there is no remission. It is with them at home, on the playground, in the classroom, and at a Friday night sleepover. It will be with them as they enter high school, go to college and get their first job. For a person born with this virus it is a permanent part of their life. This bill will help to ensure that the needs of infants, children, and adolescents living with HIV/AIDS are not overlooked.

By Ms. MURKOWSKI:

S. 2893. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I believe all Americans should have access to affordable, high-quality health care. Rising health care costs impose a burden on families and small businesses and put coverage out of reach for many Americans. According to the most recent Census Bureau findings, 45 million Americans lack health insurance; about 200,000 of the 45 million were Alaskans. The vast majority, nearly 80 percent, of uninsured Alaskans in 2003–2004 were employed or members of working families.

As part of the effort to address this problem, I have introduced legislation that will increase the number of insured Americans. The SAVE (Securing Access, Value, and Equality) Health Care Act offers a solution to the problems of accessibility, portability, and choice.

My plan does not just increase funding for current government programs; my plan provides a path to greater opportunity, more freedom, and more control over your own health care and your own future.

The SAVE Health Care Act would provide working class Americans with a tax credit that they can use to purchase health insurance. The act targets three-quarters of the total number of uninsured Americans by setting eligibility at 350 percent of poverty, or an Alaskan's annual income of $41,000 for an individual or $82,000 for a family of four.

To help make health coverage more affordable for low and middle-income individuals and families who do not have employer-provided coverage and who are not eligible for the expanded public programs, this legislation would provide a refundable tax credit of up to $1,000 for individuals and up to $3,000 for families, which could be advanced on a monthly basis.

The SAVE Act would also cover an additional 50 percent of any health insurance premiums not covered by the basic credit. This provision is targeted to help those who need health insurance the most—those who are sick, have pre-existing health conditions, or older Americans whose insurance prices are higher and who do not have access to employer-based insurance.

A tax credit proposal without this type of additional assistance would only help insure the young and the healthy because their premiums are

the lowest and most within reach financially. The additional credit is a key part of providing coverage to Americans with the greatest need.

The SAVE Act would allow those who have access to employer-sponsored plans to have up to one-half of the credit they are eligible for to help them pay for their portion of the health insurance premiums. This credit amount is a balance designed to help employees afford their portion of employer-sponsored coverage without providing employers an incentive to shift more costs to their employees.

The SAVE Act includes a provision that would make the premiums for qualified high-deductible health insurance plans that coordinate with Health Savings Accounts (HSAs) tax-deductible. Both individuals and their employers can contribute tax free dollars to an HSA, and the individual can use these dollars for qualifying out-of-pocket medical expenses.

The SAVE Act provides small business owners a refundable tax credit for contributions they make to their employees' HSAs in the amount of $500 per worker with family coverage and $200 per worker with individual coverage. More than half of the uninsured are small business employees and their families.

In addition to reducing the number of our nation's uninsured, this legislation will create an incentive for personal savings while shaping a health care marketplace driven by consumer choice.

The SAVE Act would extend and expand the State high risk pool health insurance grant program that was established under the Trade Adjustment Act of 2002. Alaska is one of 31 States that currently operates a high risk pool. I commend the work of the Alaska Comprehensive Health Insurance Association (ACHIA), the nonprofit organization that provides health insurance to 467 Alaska residents who would otherwise be denied coverage because of medical conditions. Under this legislation, Alaska will receive a portion of the $75 million allocated in this legislation to continue to operate our high risk pool and to continue insuring Alaskans that really need this program.

The SAVE Act would establish a grant program in which States would be encouraged to establish Voluntary Choice Cooperatives, or VCCs. VCCs essentially increase the clout of small businesses in negotiating with insurers. Premiums are generally higher for small businesses because they do not have as much purchasing power as large companies. This limits the ability of small businesses to bargain for lower rates. They also have higher administrative costs because they have fewer employees among whom to spread the fixed cost of a health benefits plan. Moreover, VCCs decrease the risk of adverse selection and spread the cost of health care over a broader group.

I believe this well-rounded approach will provide significant help with the cost and availability of health insurance, and make a real difference in reducing the number of uninsured Americans.

By Mr. KENNEDY:

S. 2894. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's an honor to introduce the ''Prevention of Childhood Obesity Act''. The goal of this legislation is to deal more effectively with the growing health epidemic of obesity now faced by millions of children today. Currently, 9,000,000 children have this chronic condition, and it's putting them at high risk for diabetes, high blood pressure, and other preventable diseases. In addition, obese children frequently grow up to become obese adults, and they impose at least 11 billion dollars in medical costs on the nation each year.

Childhood obesity is the direct result of too much food and too little physical activity. One of the results is the epidemic now plaguing the nation. Children watch over 40,000 food advertisements on television a year—one food commercial every minute, urging them to eat large helpings of candy, snacks, fast foods and cereal high in sugar.

Young students have access to vending machines that now put high-fat or high-sugar snacks and beverages in them. Yet they have no opportunity for physical activity or instruction in physical education. They live in neighborhoods with instant access to fast foods, but no supermarket, no outdoor produce stand, or few fruits and vegetables. These same neighborhoods also have no bike paths, sidewalks, tracks for walking or running, and no parks or open spaces.

The result is millions of children without nutritious foods, a safe physical environment, that allows them to be active, and healthy information. Today, only 2 percent of the nation's children meet Department of Agriculture standards for daily intake. Less than a third meet the recommended guidelines for exercise, and millions have developed obesity.

According to the Centers for Disease Control, regular physical activity and healthy eating and a positive environment for such behavior are essential factors in reducing the epidemic of obesity. Our legislation focuses, therefore, on coordinating federal, state, community and school efforts to see that our children have access to a healthy environment.

This bill appoints a federal commission to see that Federal food policies promote good nutrition. Guidelines for food and physical activity advertisements will be established by a summit conference of representatives from education, industry, and health care.

At the State level, the bill provides grants and coordinates efforts by the states to implement and evaluate ways to prevent obesity. It offers grants for early childhood activities and school and after-school programs, and for developing curricular, training educators, and implementing policies to reduce poor foods, increase physical education, and help communities build sidewalks, bike trails, and create parks that encourage healthy activity and sports.

We know that regular physical activity and healthy eating can prevent childhood obesity. We need a coordinated and focused nationwide effort to halt this health epidemic facing millions of children, and prevent the chronic diseases and unnecessary suffering that afflict millions of children today. It's time for Congress to do its part, and I urge my colleagues to support us.

By Mr. FITZGERALD:

S. 2898. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Governmental Affairs.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Program Assessment and Results Act, or ''PAR Act.'' This bill is a companion bill to H.R. 3826 that Congressman Todd Platts, Chairman of the House Government Reform Subcommittee on Government Efficiency and Financial Management, introduced on February 25, 2004.

The PAR Act builds upon the reforms adopted by Congress in the early 1990s, such as the Government Performance and Results Act of 1993 (GPRA). This bill would increase the effectiveness, and accountability of the Federal Government by requiring the review of Federal programs at least once every five years to evaluate their performance. Information obtained from these reviews would be incorporated in the President's budget requests and would assist Congress in its oversight and funding of Federal programs.

The PAR Act would strengthen the program evaluation requirements under the strategic planning requirements of GPRA, the one area that the Government Accountability Office (GAO) recognized as a government-wide deficiency under GPRA. GAO found that most agencies were implementing the requirement for program evaluation merely by making lists of observations rather than presenting and analyzing performance data.

To build upon the framework of reforms established by GPRA, the PAR Act would require the Office of Management and Budget (OMB) to work with Federral agencies to carefully and periodically assess the strengths and

weaknesses of all Federal programs. This legislation would enable policy makers to compare data from different agents to determine how different programs with similar goals are achieving their results.

The PAR Act would improve the accountability of Federal programs in a number of areas. Congress would be able to use this information to make more informed budget decisions and conduct more effective oversight. Federal managers would use the information to improve the way they manage programs. Moreover, taxpayers will be able to track the progress of these programs with more precision.

The ultimate result of the PAR Act will be a more effective and efficient government. Therefore, I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 2898

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Program Assessment and Results Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) inefficiency and ineffectiveness in Federal programs undermines the confidence of the American people in the Government and reduces the Federal Government's ability to adequately address vital public needs;

(2) insufficient information on program performance seriously disadvantages Federal managers in their efforts to improve program efficiency and effectiveness;

(3) congressional policy making, spending decisions, and program oversight are handicapped by insufficient attention to program performance and results;

(4) programs performing similar or duplicative functions that exist within a single agency or across multiple agencies should be identified and their performance and results shared among all such programs to improve their performance and results;

(5) advocates of good government continue to seek ways to improve accountability, focus on results, and integrate the performance of programs with decisions about budgets;

(6) with the passage of the Government Performance and Results Act of 1993, the Congress directed the executive branch to seek improvements in the effectiveness, efficiency, and accountability of Federal programs by having agencies focus on program results; and

(7) the Government Performance and Results Act of 1993 provided a strong framework for the executive branch to monitor the long-term goals and annual performance of its departments and agencies.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to improve the Government Performance and Results Act of 1993 by implementing a program assessment and evaluation process that attempts to determine the strengths and weaknesses of Federal programs with a particular focus on the results produced by individual programs;

(2) to use the information gathered in the assessment and evaluation process to build on the groundwork laid in the Government Performance and Results Act of 1993 to help the executive branch make informed management decisions and evidence-based funding requests aimed at achieving positive results; and

(3) to provide congressional policy makers the information needed to conduct more effective oversight, to make better-informed authorization decisions, and to make more evidence-based spending decisions that achieve positive results for the American people.

SEC. 4. PROGRAM ASSESSMENT.

(a) REQUIREMENT FOR PROGRAM ASSESSMENTS.—Chapter 11 of title 31, United States Code, as amended by the Government Performance and Results Act of 1993, is amended by adding at the end the following new section:

''§ 1120. Program assessment

''(a) ASSESSMENT.—The Director of the Office of Management and Budget to the maximum extent practicable shall conduct, jointly with agencies of the Federal Government, an assessment of each program at least once every 5 fiscal years.

''(b) ASSESSMENT REQUIREMENTS.—In conducting an assessment of a program under subsection (a), the Director of the Office of Management and Budget and the head of the relevant agency shall—

''(1) coordinate to determine the programs to be assessed; and

''(2) evaluate the purpose, design, strategic plan, management, and results of the program, and such other matters as the Director considers appropriate.

''(c) CRITERIA FOR IDENTIFYING PROGRAMS TO ASSESS.—The Director of the Office of Management and Budget shall develop criteria for identifying programs to be assessed each fiscal year. In developing the criteria, the Director shall take into account the advantages of assessing during the same fiscal year any programs that are performing similar functions, have similar purposes, or share common goals, such as those contained in strategic plans under section 306 of title 5. To the maximum extent possible, the Director shall assess a representative sample of Federal spending each fiscal year.

''(d) CRITERIA FOR MORE FREQUENT ASSESSMENTS.—The Director of the Office of Management and Budget shall make every effort to assess programs more frequently than required under subsection (a) in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been made, or the head of the relevant agency and the Director determine that more frequent assessment is warranted.

''(e) PUBLICATION.—At least 90 days before completing the assessments under this section to be conducted during a fiscal year, the Director of the Office of Management and Budget shall—

''(1) make available in electronic form through the Office of Management and Budget website or any successor website, and provide to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

''(A) a list of the programs to be assessed during that fiscal year; and

''(B) the criteria that will be used to assess the programs; and

''(2) provide a mechanism for interested persons to comment on the programs being assessed and the criteria that will be used to assess the programs.

''(f) REPORT.—(1) The results of the assessments conducted during a fiscal year shall be submitted in a report to Congress at the same time that the President submits the next budget under section 1105 of this title after the end of that fiscal year.

''(2) The report shall—

''(A) include the performance goals for each program assessment;

''(B) specify the criteria used for each assessment;

''(C) describe the results of each assessment, including any significant limitation in the assessments;

''(D) describe significant modifications to the Federal Government performance plan required under section 1105(a)(28) of this title made as a result of the assessments; and

''(E) be available in electronic form through the Office of Management and Budget website or any successor website.

''(g) CLASSIFIED INFORMATION.—(1) With respect to program assessments conducted during a fiscal year that contain classified information, the President shall submit on the same date as the report is submitted under subsection (f)—

''(A) a copy of each such assessment (including the classified information), to the appropriate committees of jurisdiction of the House of Representatives and the Senate; and

''(B) consistent with statutory law governing the disclosure of classified information, an appendix containing a list of each such assessment and the committees to which a copy of the assessment was submitted under subparagraph (A), to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

''(2) Upon request from the Committee on Government Reform of the House of Representatives or the Committee on Governmental Affairs of the Senate, the Director of the Office of Management and Budget shall, consistent with statutory law governing the disclosure of classified information, provide to the Committee a copy of—

''(A) any assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any appendix submitted under subparagraph (B) of such paragraph); and

''(B) any appendix described in subparagraph (B) of paragraph (1).

''(3) In this subsection, the term 'classified information' refers to matters described in section 552(b)(1)(A) of title 5.

''(h) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities authorized or required by this section shall be considered inherently Governmental functions and shall be performed only by Federal employees.

''(i) TERMINATION.—This section shall not be in effect after September 30, 2013.''.

(b) GUIDANCE.—Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of section 1120 of title 31, United States Code, as added by subsection (a), including guidance on a definition of the term ''program''.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 1115(g) of title 31, United States Code, is amended by striking ''1119'' and inserting ''1120''.

(2) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by adding at the end the following:

''1120. Program assessment.''.

SEC. 5. STRATEGIC PLANNING AMENDMENTS.

(a) CHANGE IN DEADLINE FOR STRATEGIC PLAN.—Subsection (a) of section 306 of title 5, United States Code, is amended by striking ''No later than September 30, 1997,'' and inserting ''Not later than September 30 of each year following a year in which an election for President occurs, beginning with September 30, 2005, ''.

(b) CHANGE IN PERIOD OF COVERAGE OF STRATEGIC PLAN.—Subsection (b) of section 306 of title 5, United States Code, is amended to read as follows:

''(b) Each strategic plan shall cover the 4-year period beginning on October 1 of the year following a year in which an election for President occurs.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 447—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT OF THE UNITED STATES SHOULD EXERCISE HIS CONSTITUTIONAL AUTHORITY TO PARDON POSTHUMOUSLY JOHN ARTHUR ''JACK'' JOHNSON FOR MR. JOHNSON'S RACIALLY-MOTIVATED 1913 CONVICTION THAT DIMINISHED HIS ATHLETIC, CULTURAL, AND HISTORIC SIGNIFICANCE, AND UNDULY TARNISHED HIS REPUTATION

Mr. MCCAIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. REID, and Mr. TALENT) submitted the following resolution; which was considered and agreed to:

S. RES. 447

Whereas, Jack Johnson was a flamboyant, defiant, and controversial figure in American history who challenged racial biases;

Whereas, Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas, Jack Johnson became a professional boxer and traveled throughout the United States fighting white as well as black heavyweights;

Whereas, Jack Johnson, after being denied, on purely racial grounds, the opportunity to fight two white champions was granted an opportunity in 1908 by an Australian promoter to fight the reigning white title-holder, Tommy Burns, whom Johnson defeated to become the first African American to hold the title of Heavyweight Champion of the World;

Whereas, Jack Johnson's victory prompted a search for a white boxer who could beat Johnson, a recruitment effort dubbed the search for the ''great white hope'';

Whereas, a white former champion named Jim Jeffries left retirement to fight and lose to Jack Johnson in Reno, Nevada, in 1910 in what was deemed the ''Battle of the Century'';

Whereas, rioting and aggression toward African Americans resulted from Johnson's defeat of Jeffries and led to racially-motivated murders of African Americans nationwide;

Whereas, Jack Johnson's relationship with white women compounded the resentment felt toward him by many whites;

Whereas, between 1901 and 1910, 754 African Americans were lynched, some of whom were lynched simply for being ''too familiar'' with white women;

Whereas, in 1910 the Congress passed the Mann Act, (18 U.S.C. 2421), then known as the ''White Slave Traffic Act,'' which outlawed the transportation of women in interstate or foreign commerce ''for the purpose of prostitution or debauchery, or for any other immoral purpose'';

Whereas, in October, 1912, Jack Johnson became involved with a white woman whose mother disapproved of their relationship and sought action from the United States Department of Justice, claiming that Johnson had abducted her daughter;

Whereas, Jack Johnson was arrested on October 18, 1912, by Federal marshals for transporting this woman across State lines for an ''immoral purpose'' in violation of the Mann Act, only to have the charges dropped when the woman refused to cooperate with authorities and then married the champion;

Whereas, Federal authorities persisted and summoned a white woman named Belle Schreiber who testified that Johnson had transported her across State lines for the purpose of ''prostitution and debauchery'';

Whereas, Jack Johnson was eventually convicted in 1913 of violating the Mann Act and sentenced to one year and a day in Federal prison, but fled the country to Canada and then on to various European and South American countries, before losing the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas, Jack Johnson returned to the United States in July, 1920, surrendered to authorities, served nearly a year in the Federal penitentiary at Leavenworth, Kansas, and fought subsequent boxing matches, but never regained the Heavyweight Championship title;

Whereas, Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas, Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954 Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) Jack Johnson paved the way for African American athletes to participate and succeed in racially-integrated professional sports in the United States;

(2) Jack Johnson was wronged by a racially-motivated conviction prompted by his success in the boxing ring and his relationship with white women;

(3) his criminal conviction unjustly ruined his career and destroyed his reputation; and

(4) the President of the United States should grant a pardon to Jack Johnson posthumously to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government's prosecutorial authority and in recognition of Mr. Johnson's athletic and cultural contributions to society.

SENATE CONCURRENT RESOLUTION 140—URGING THE PRESIDENT TO WITHDRAW THE UNITED STATES FROM THE 1992 AGREEMENT ON GOVERNMENT SUPPORT FOR CIVIL AIRCRAFT WITH THE EUROPEAN UNION AND IMMEDIATELY FILE A CONSULTATION REQUEST, UNDER THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES OF THE WORLD TRADE ORGANIZATION, ON THE MATTER OF INJURY TO, AND ADVERSE EFFECTS ON, THE COMMERCIAL AVIATION INDUSTRY OF THE UNITED STATES

Mr. BROWNBACK (for himself and Mr. ROBERTS) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 140

Whereas as recently as 1990, Boeing was the uncontested world leader in commercial aviation, and had produced over 55 percent of all the jet commercial aircraft ever produced; McDonnell Douglas produced 25 percent, while Airbus accounted for only 6 percent;

Whereas in 1992 the Agreement on Government Support for Civil Aircraft was negotiated between the United States and the European Community to address the near total subsidization of Airbus commercial aircraft development;

Whereas the agreement stated that no more than 33 percent of total aircraft development costs could be borne by the respective governments;

Whereas the agreement ''recogniz[ed] that the disciplines in the GATT Agreement on Trade in Civil Aircraft should be strengthened with a view to progressively reducing the role of government support'';

Whereas Boeing has experienced a dramatic downturn in the last three years, losing thousands of employees and a significant market share;

Whereas Airbus has continued to increase market share at a time of significant turbulence in the commercial airline industry as a result of continued government subsidies;

Whereas the European Union has not abided by the agreement to phase out subsidies;

Whereas European Union officials have publicly reaffirmed their plan to achieve global leadership in aerospace based on continued subsidization, noting in ''European Aeronautics: A Vision for 2020'', that ''gradual realization of our ambitious vision must be facilitated by an increase in public funding. European aeronautics has grown and prospered with the support of public funds and this support must continue if we are to achieve our objective of global leadership.'';

Whereas the new Airbus A380 is the most subsidized aircraft ever, having received more than $6,000,000,000 in direct subsidies from the European Union, including $3,700,000,000 in launch aid;

Whereas in public statements, Airbus representatives have indicated that the company may launch yet another new aircraft, which may require billions of dollars of additional subsidies from the European Union;

Whereas Airbus has achieved market parity with Boeing; therefore the 1992 agreement has outlived its usefulness;

Whereas the parties to the 1992 agreement noted ''their intention to act without prejudice to their rights and obligations under the GATT and under other multilateral agreements negotiated under the auspices of the GATT'';

Whereas on a visit to Washington State on August 13, 2004, President George W. Bush said ''I've instructed U.S. Trade Representative Bob Zoellick to inform European officials in his September meeting that we think these subsidies are unfair and that he should pursue all options to end these subsidies—including bringing a WTO case, if need be'';

Whereas the Boeing Company has more than 150,000 employees within the United States and has 26,000 suppliers in all 50 States;

Whereas the United States Trade Representative has strongly supported Boeing's efforts to seek redress in this matter and has patiently and appropriately pursued bilateral dialogue with the European Union in an attempt to negotiate a new agreement to discipline subsidies; and

Whereas public statements by the United States Trade Representative have made it clear that bilateral consultations on the matter of ending commercial aviation subsidies by the European Union have been unproductive and that further talk is unlikely to resolve the serious injury caused to the Boeing company: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should direct the United States Trade Representative to withdraw the United States from the Agreement on Government Support for Civil Aircraft that was entered into with the European Community in 1992; and

(2) the President should direct the United States Trade Representative immediately to file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of serious injury to the commercial aviation industry of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3957. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3958. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3959. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3960. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3961. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself , Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself , Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3966. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3967. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3792 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3972. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3957. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 5, beginning on line 15, strike ''and the Department of Energy'' and insert ''the Department of Energy, and the Coast Guard''.

On page 5, beginning on line 23, strike ''including the Office of Intelligence of the Coast Guard''.

On page 6, line 10, insert '', as determined consistent with any guidelines issued by the President,'' before ''to the interests''.

On page 9, beginning on line 13, strike ''counterterrorism'' and all that follows through ''foreign intelligence'' on line 15 and insert ''intelligence activities of the United States Government between intelligence activities located abroad and intelligence''.

On page 10, line 23, strike ''a principal'' and insert ''the principal''.

On page 12, line 18, insert ''of'' before ''the National Intelligence Program''.

On page 13, line 12, insert ''appropriations for'' after ''oversee''.

On page 20, beginning on line 12, strike ''related to the national security which is''.

On page 21, line 23, strike ''(4)'' and insert ''(5)''.

On page 22, line 3, strike ''(5)'' and insert ''(6)''.

On page 25, line 10, strike ''head of the''.

On page 28, line 17, strike ''or'' and insert ''and''.

On page 30, line 24, strike ''205'' and insert ''206''.

On page 31, line 23, strike ''205'' and insert ''206 and the Clinger–Cohen Act (divisions D and E of Public Law 104–106; 110 Stat. 642)''.

On page 32, beginning on line 13, strike ''on all matters'' and all that follows through line 15 and insert ''or international organizations on all matters involving intelligence related to the national security.''.

On page 32, beginning on line 21, strike ''head of each element of the intelligence community'' and insert ''head of any department, agency, or other element of the United States Government''.

On page 59, line 20, strike ''309'' and insert ''310''.

On page 87, line 8, insert ''and analytic'' after ''intelligence collection''.

On page 93, line 17, insert ''of'' before ''electronic access''.

On page 96, beginning on line 13, strike ''National Security Council'' and insert ''President''.

On page 99, line 25, strike ''National Security Council'' and insert ''President''.

On page 134, strike lines 6 through 9 and insert the following:

(1) in consultation with the Executive Council, issue guidelines—

(A) for acquiring, accessing, sharing, and using information, including

On page 153, between lines 2 and 3, insert the following:

SEC. 207. PERMANENT AUTHORITY FOR PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) IN GENERAL.—Section 710 of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 50 U.S.C. 435 note) is amended—

(1) by striking ''(a) EFFECTIVE DATE.—''; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENT.—The head of such section is amended by striking ''**; SUNSET**''.

On page 154, line 16, strike ''section 205(g)'' and insert ''subsections (e) and (g) of section 205''.

On page 154, line 21, strike ''section 205(g)'' and insert ''subsections (e) and (g) of section 205''.

On page 156, line 4, strike ''section 205(g)'' and insert ''subsections (e) and (g) of section 205''.

On page 170, line 19, strike ''and independent'' and insert ''independent''.

On page 171, beginning on line 1, strike ''and independent'' and insert ''independent''.

On page 171, beginning on line 8, strike ''and independent'' and insert ''independent''.

On page 171, line 14, strike ''objective and independent'' and insert ''timely, objective, independent''.

On page 171, line 20, strike ''and independent'' and insert ''independent''.

On page 175, strike lines 8 through 17 and insert the following:

(2) COVERED INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of—

(i) a false or inaccurate statement to Congress contained in any intelligence assessment, report, or estimate; or

(ii) the withholding from Congress of any intelligence information material to any intelligence assessment, report, or estimate.

(B) EXCEPTION.—Paragraph (1) does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

On page 177, after line 17, add the following:

Subtitle D—Homeland Security Civil Rights and Civil Liberties Protection

SEC. 231. SHORT TITLE.

This title may be cited as the ''Homeland Security Civil Rights and Civil Liberties Protection Act of 2004''.

SEC. 232. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

''(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and''.

SEC. 233. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

''(a) IN GENERAL.—The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—'';

(2) by amending paragraph (1) to read as follows:

''(1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;'';

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

''(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

''(5) coordinate with the Privacy Officer to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

''(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.''.

SEC. 234. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

''(2) The senior official designated under paragraph (1) shall—

''(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

''(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

''(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

''(i) alleged abuses of civil rights or civil liberties; and

''(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

''(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

''(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

''(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

''(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

''(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

''(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.''.

SEC. 235. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting '', who shall report directly to the Secretary,'' after ''in the Department'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

''(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports on such programs, policies, and procedures; and''.

On page 180, line 8, strike ''pertaining to intelligence relating to'' and insert ''related to intelligence affecting''.

On page 181, beginning on line 8, strike ''on all matters'' and all that follows through line 10 and insert ''or international organizations on all matters involving intelligence related to the national security.'.''.

On page 201, strike line 14 through 20 and insert the following:

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 902(a) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 116 Stat,. 2432; 50 U.S.C. 402b) is amended—

(1) by striking ''President'' and inserting ''National Intelligence Director''; and

(2) by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

On page 205, line 1, strike ''**COUNTERTERRORISM**'' and insert ''**COUNTERINTELLIGENCE**''.

On page 207, between lines 13 and 14, insert the following:

''The Director of the Central Intelligence Agency.

On page 207, line 21, insert ''Deputy'' before ''Director''.

On page 44, strike line 24.

On page 45, line 1, strike ''(6)'' and insert ''(5)''.

On page 45, line 3, strike ''(7)'' and insert ''(6)''.

On page 45, line 5, strike ''(8)'' and insert ''(7)''.

On page 45, line 7, strike ''(9)'' and insert ''(8)''.

On page 45, line 9, strike ''(10)'' and insert ''(9)''.

On page 45, line 11, strike ''(11)'' and insert ''(10)''.

On page 45, line 14, strike ''(12)'' and insert ''(11)''.

On page 52, strike lines 1 through 20.

On page 52, line 21, strike ''**126.**'' and insert ''**125.**''.

On page 55, line 1, strike ''**127.**'' and insert ''**126.**''.

On page 56, line 9, strike ''**128.**'' and insert ''**127.**''.

On page 57, line 1, strike ''**129.**'' and insert ''**128.**''.

On page 57, line 17, strike ''**130.**'' and insert ''**129.**''.

On page 58, strike lines 3 through 9 and insert the following:

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall—

(1) have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law;

(2) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(3) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(4) provide unfettered access to the Director to financial information under the National Intelligence Program; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

On page 59, line 15, strike ''**131.**'' and insert ''**130.**''.

On page 202, line 16, strike ''131(b)'' and insert ''130(b)''.

On page 19, line 12, insert ''of access'' after ''grant''.

On page 20, line 25, insert ''of'' after ''development''.

On page 53, line 2, strike ''President'' and insert ''National Intelligence Director''.

On page 173, line 11, strike ''2'' and insert ''3''.

SA 3958. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

On page 6, line 12, strike ''counterintelligence or''.

On page 6, beginning on line 17, strike ''expressly provided for in this title'' and insert ''expressly provided for in law''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau

of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and the National Intelligence Director in a manner consistent with section 112(a)(8).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act as the Office of Intelligence is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) Supervision of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Coordinating human source development and management by the Bureau.

(5) Coordinating collection by the Bureau against nationally-determined intelligence requirements.

(6) Strategic analysis.

(7) Intelligence program and budget management.

(8) The intelligence workforce.

(9) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

On page 196, strike line 20 and all that follows through page 197, line 7, and insert the following:

SEC. 304. MODIFICATION OF COUNTERINTELLIGENCE AND NATIONAL INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) The term 'counterintelligence' means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.''; and

(2) in paragraph (5)(B)—

(A) by striking ''counterintelligence or''; and

(B) by striking ''expressly provided for in this title'' and insert ''expressly provided for in law''.

SA 3959. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPTROLLER GENERAL STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study that examines—

(1) detention alternatives for monitoring aliens who do not require a secure detention setting while they are awaiting hearings during removal proceedings or the appeals process, including—

(A) electronic monitoring devices;

(B) home visits;

(C) work visits; and

(D) reporting by telephone;

(2) the effectiveness of the Intensive Supervision Appearance Program of the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and

(3) any other matters that the Comptroller General considers appropriate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) any recommendations, including recommendations for administrative and legislative action, that the Comptroller General considers appropriate.

SA 3960. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Human Smuggling Penalty Enhancement Act of 2004''.

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''knowing that a person is an alien, brings'' and inserting ''knowing or in reckless disregard of the fact that a person is an alien, brings'';

(II) by striking ''Commissioner'' and inserting ''Under Secretary for Border and Transportation Security''; and

(III) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law'' before the semicolon;

(ii) in clause (iv), by striking ''or'' at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking '', or'' and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting ''; or''; and

(III) by inserting after subclause (II) the following:

''(III) attempts to commit any of the preceding acts; or''; and

(iv) by inserting after clause (v) the following:

''(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;''; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking ''or (v)(I)'' and inserting '', (v)(I), or (vi)''; and

(II) by striking ''10 years'' and inserting ''20 years'';

(ii) in clause (ii), by striking ''5 years'' and inserting ''10 years''; and

(iii) in clause (iii), by striking ''20 years'' and inserting ''35 years'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting '', or facilitates or attempts to facilitate the bringing or transporting,'' after ''attempts to bring''; and

(ii) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law,'' after ''with respect to such alien''; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking '', or'' and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting ''; or'';

(iii) by inserting after clause (iii), the following:

''(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),''; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking ''3 nor more than 10 years'' and inserting ''5 years nor more than 20 years''; and

(3) in paragraph (3)(A), by striking ''5 years'' and inserting ''10 years''.

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

SA 3961. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''military'' and all that follows through page 2, line 9, and insert the following:

uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the Director to specify or require the head of a department, agency, or element of the United States Government to approve a request for the transfer, assignment, or detail of uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 4 and all that follows through page 2, line 2 and insert the following:

Nothing in this Act, or the amendments made by this Act, shall be construed to impair the authority of—

(1) the Director of the Office of Management and Budget; or

(2) except as otherwise provided in this Act, or the amendments made by this Act, the principal officers of the executive departments,

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SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 4 through 6 and insert the following:

Except as otherwise provided by this Act, or the amendments made by this Act, nothing in the Act, or the amendments made by this Act, shall be construed to impair the authority of—

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(9) managing the Homeland Security Information Clearinghouse established under section 801(d); and

''(10) managing the Noble Training Center in Fort McClellan, Alabama.''

SA 3966. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking ''DEFINITION.—In this section, the term'' and inserting the following: ''DEFINITIONS.—In this section—

''(1) the term'';

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(2) the term 'expert advice or assistance' means any act, effort, or service—

''(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

''(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

''(3) the term 'training' means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

''(4) the term 'personnel' means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.''.

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking '', within the United States or subject to the jurisdiction of the United States, knowingly''; and

(B) by inserting ''with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization,'' after ''conspires to do so,''; and

(2) by adding at the end the following:

''(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

''(A) is designated a 'foreign terrorist organization' under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

''(B) has engaged or does engage in international or domestic terrorism.''.

SA 3967. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. TERRORISM SUBPOENAS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

''§ 2332g. Terrorism subpoenas

''(a) AUTHORIZATION OF USE.—

''(1) IN GENERAL.—In any terrorism investigation within the jurisdiction of the Department of Justice, the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General, or designee, finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials under the circumstances set forth in paragraph (5).

''(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and may require production as soon as possible, but in no event less than 24 hours after service of the subpoena unless the subpoena recipient consents to production forthwith.

''(3) DELEGATION.—The Attorney General's authority to issue terrorism subpoenas under this section may be delegated, with authority to redelegate only to the following officials:

''(A) Each United States attorney.

''(B) The Assistant Attorney General for the Criminal Division.

''(C) The Director of the Federal Bureau of Investigation or a designee of the Director.

''(4) LIMITATION ON DELEGATION.—The authority to issue subpoenas under this section by the Federal Bureau of Investigation is limited to circumstances under which the issuer of the subpoena has a good faith belief for asserting, and certifies on the face of the subpoena, that either—

''(A) an Assistant United States attorney was not readily available at the time the subpoena was issued; or

''(B) a grand jury investigating the relevant matter was not currently sitting in the district in which the subpoena was being issued. If a subpoena is issued under this subsection, the issuing agent must notify and provide a copy of the subpoena to the United States attorney for the district in which the terrorism investigation is being conducted not later than 3 days after the date of issuance of the subpoena.

''(5) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

''(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

''(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where the witness was served with a subpoena.

''(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

''(b) SERVICE.—

''(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

''(2) SERVICE OF SUBPOENA.—

''(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

''(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

''(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

''(2) ORDER.—Any court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to appear, to produce records, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof.

''(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

''(d) NONDISCLOSURE ORDER.—

''(1) IN GENERAL.—A United States district court, upon application of the United States, may issue an ex parte order that no person or entity disclose to any other person or entity (other than to an attorney in order to obtain legal advice) the existence of such summons for a period of up to 120 days if there is reason to believe that such disclosure may result in a danger to the national security of the United States, the endangerment to the life or physical security of any person, flight to avoid prosecution, destruction of or tampering with evidence, or intimidation of potential witnesses.

''(2) EMERGENCY NONDISCLOSURE AUTHORITY.—Notwithstanding any other provision of this title, when the Attorney General or designee reasonably determines that—

''(A) an emergency situation exists with respect to the issuance of a subpoena under this section in order to obtain relevant information before an order authorizing nondisclosure can with due diligence be obtained; and

''(B) the factual basis for issuance of a nondisclosure order under this section exists,

the Attorney General or designee may authorize the issuance of a subpoena under this section and order that it not be disclosed if an order in accordance with paragraph (1) is made to a Federal district judge as soon as practicable, but not later than 72 hours after the Attorney General or designee authorizes the nondisclosure subpoena. Any nondisclosure order issued by a district court under this section shall be effective as if entered at the time the subpoena was issued.

''(3) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

''(4) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

''(5) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Any person who knowingly violates a nondisclosure order issued by a district court shall be imprisoned for not more than 1 year. If the violation is committed with the intent to obstruct an investigation or judicial proceeding, the person shall be imprisoned for not more than 5 years.

''(6) NONDISCLOSURE EXTENSIONS.—An order under this subsection may be renewed for additional periods of up to 120 days upon a showing that the circumstances described in paragraph (1) continue to exist. An officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed when a nondisclosure order is no longer effective.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—At any time before the return date specified in a subpoena issued under this section, the person or entity subpoenaed may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the subpoena.

''(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—A district court may modify or set aside a nondisclosure order imposed under paragraph (1) or (2) of subsection (d) at the request of a person to whom a subpoena has been directed if the court finds that the reasons supporting the original nondisclosure order no longer exist. The burden is on the government to support the validity and continuity of any nondisclosure orders under this section.

''(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the

court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

''(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

''(g) GUIDELINES.—Not later than 6 months after the date of enactment of this section, the Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section including guidelines for effective retention and recordkeeping.

''(h) INFORMATION SHARING.—Information acquired by the government under this section may be disclosed under the exceptions and pursuant to the procedures set forth in rule 6(e)(3) of the Federal Rules of Criminal Procedure.

''(i) CONGRESSIONAL OVERSIGHT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

''(1) the number of subpoenas issued by the Federal Bureau of Investigation under subsection (a)(4);

''(2) any guidelines or changes to guidelines implemented by the Attorney General under subsection (g); and

''(3) whether judicial enforcement of any terrorism subpoena was pursued and the result of that litigation.''.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

''2332g. Terrorism subpoenas.''.

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 19 and all that follows through page 3, line 9.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, strike line 14 and all that follows through page 12, line 9, and insert the following:

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking ''DEFINITION.—In this section, the term'' and inserting the following: ''DEFINITIONS.—In this section—

''(1) the term'';

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(2) the term 'expert advice or assistance' means any act, effort, or service—

''(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

''(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

''(3) the term 'training' means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

''(4) the term 'personnel' means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.''.

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking '', within the United States or subject to the jurisdiction of the United States, knowingly''; and

(B) by inserting ''with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization,'' after ''conspires to do so,''; and

(2) by adding at the end the following:

''(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

''(A) is designated a 'foreign terrorist organization' under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

''(B) has engaged or does engage in international or domestic terrorism.''.

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 4 through 7, and insert the following:

(a) IN GENERAL.—Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

(b) PRESERVATION OF PRE-9/11 GRANT PROGRAMS.—This section shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (c), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(c) PROGRAMS INCLUDED.—The programs referred to in subsection (b) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106–74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, beginning with line 20, strike through line 3 on page 4, and insert the following:

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond (including in bond), remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being filed to be removed from the wharf or pier and deposited in the public stores, a general order warehouse, or a centralized examination station where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

SA 3972. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 206. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term ''Advisory Board'' means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term ''Executive Council'' means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term ''homeland security information'' means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities,

means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

(C) communications of or by such groups or individuals; or

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(4) NETWORK.—The term ''Network'' means the Information Sharing Network described under subsection (c).

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks upon the United States, Congress makes the following findings:

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of ''connecting the dots'', is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

(3) In the period preceding September 11, 2001, there were instances of potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels, and information that was requested but could not be shared.

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated ''need to know'' before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current ''need-to-know'' culture of information protection needs to be replaced with a ''need-to-share'' culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new ''trusted information network'' is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

(H) incorporating protections for individuals' privacy and civil liberties;

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act; and

(9) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

(g) DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.—

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Network; and

(iii) assist, monitor, and assess the implementation of the Network by Federal departments and agencies to ensure adequate progress, technological consistency and policy compliance; and regularly report the findings to the President and to Congress.

(B) CONTENT OF POLICIES, PROCEDURES, GUIDELINES, RULES, AND STANDARDS.—The policies, procedures, guidelines, rules, and standards under subparagraph (A)(ii) shall—

(i) take into account the varying missions and security requirements of agencies participating in the Network;

(ii) address development, implementation, and oversight of technical standards and requirements;

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

(iv) address and facilitate information sharing between Federal departments and agencies and State, tribal and local governments;

(v) address and facilitate, as appropriate, information sharing between Federal departments and agencies and the private sector;

(vi) address and facilitate, as appropriate, information sharing between Federal departments and agencies with foreign partners and allies; and

(vii) ensure the protection of privacy and civil liberties.

(2) APPOINTMENT OF PRINCIPAL OFFICER.—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(h) EXECUTIVE COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Executive Council on Information Sharing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) MEMBERSHIP.—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

(F) the Director of the Federal Bureau of Investigation or his designee;

(G) the National Intelligence Director or his designee;

(H) such other Federal officials as the President shall designate;

(I) representatives of State, tribal, and local governments, to be appointed by the President; and

(J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) RESPONSIBILITIES.—The Executive Council shall assist the Director of Management and Budget in—

(A) implementing and managing the Network;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;

(C) ensuring there is coordination among departments and agencies participating in the Network in the development and implementation of the Network;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;

(E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and

(F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).

(4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(5) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(6) INFORMING THE PUBLIC.—The Executive Council shall—

(A) make its reports to Congress available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(i) ADVISORY BOARD ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.

(2) RESPONSIBILITIES.—The Advisory Board shall advise the Executive Council on policy, technical, and management issues related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) MEMBERSHIP AND QUALIFICATIONS.—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) CHAIR.—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

(2) CONTENT.—Each report under this subsection shall include—

(A) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the government-wide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;

(B) objective systemwide performance goals for the following year;

(C) an accounting of how much was spent on the Network in the preceding year;

(D) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

(E) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Network;

(ii) have systems which have become integrated into the Network;

(iii) are providing as well as receiving information; and

(iv) are using the Network to communicate with each other;

(J) the extent to which—

(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

(k) AGENCY RESPONSIBILITIES.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Network shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Network under subsections (c) and (g);

(2) ensure the provision of adequate resources for systems and activities supporting operation of and participation in the Network; and

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

(1) not later than 1 year after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Network in the year following the submission of the report.

(m) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) INFORMATION AVAILABLE TO THE COMPTROLLER GENERAL.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses intelligence or homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

SA 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004''.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—(1) Subsection (b) of section 7404 is amended—

(A) by striking ''(1)'' after ''(b)'';

(B) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

''Physician grade.

''Dentist grade.''; and

(C) by striking paragraph (2).

(2) Subsection (a) of such section is amended by adding at the end the following: ''The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order.''.

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

''§ 7431. Pay

''(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

''(1) Base pay as provided for under subsection (b).

''(2) Market pay as provided for under subsection (c).

''(3) Performance pay as provided under subsection (d).

''(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

''(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

''(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

''(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

''For a physician or dentist with total service of:	The rate of base pay is the rate payable for:
two years or less	step 1
more than 2 years and not more than 4 years	step 2
more than 4 years and not more than 6 years	step 3
more than 6 years and not more than 8 years	step 4
more than 8 years and not more than 10 years	step 5
more than 10 years and not more than 12 years	step 6
more than 12 years and not more than 14 years	step 7
more than 14 years and not more than 16 years	step 8
more than 16 years and not more than 18 years	step 9
more than 18 years and not more than 20 years	step 10
more than 20 years and not more than 22 years	step 11
more than 22 years and not more than 24 years	step 12
more than 24 years and not more than 26 years	step 13
more than 26 years and not more than 28 years	step 14
more than 28 years	step 15.

''(4) At the same time as rates of basic pay are increased for a year under section 5303 of

title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

''(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

''(1) Each physician and dentist is eligible for market pay.

''(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.

''(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.

''(4)(A) In determining the amount of market pay for physicians or dentists, the Secretary shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians or dentists, as applicable.

''(B)(i) In determining the amount of the market pay for a particular physician or dentist under this subsection, and in determining a tier (if any) to apply to a physician or dentist under subsection (e)(1)(B), the Secretary shall consult with and consider the recommendations of an appropriate panel or board composed of physicians or dentists (as applicable).

''(ii) A physician or dentist may not be a member of the panel or board that makes recommendations under clause (i) with respect to the market pay of such physician or dentist, as the case may be.

''(iii) The Secretary should, to the extent practicable, ensure that a panel or board consulted under this subparagraph includes physicians or dentists (as applicable) who are practicing clinicians and who do not hold management positions in the medical facility of the Department at which the physician or dentist subject to the consultation is employed.

''(5) The determination of the amount of market pay of a physician or dentist shall take into account—

''(A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;

''(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;

''(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;

''(D) the board certifications, if any, of the physician or dentist;

''(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

''(F) such other considerations as the Secretary considers appropriate.

''(6) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is evaluated under this paragraph shall receive written notice of the results of such evaluation in accordance with procedures prescribed under section 7433 of this title.

''(7) No adjustment of the amount of market pay of a physician or dentist under paragraph (6) may result in a reduction of the amount of market pay of the physician or dentist while in the same position or assignment at the medical facility of the Department concerned.

''(d) PERFORMANCE PAY.—(1) One element of pay for physicians and dentists shall be performance pay.

''(2) Performance pay shall be paid to a physician or dentist on the basis of the physician's or dentist's achievement of specific goals and performance objectives prescribed by the Secretary.

''(3) The Secretary shall ensure that each physician and dentist of the Department is advised of the specific goals or objectives that are to be measured by the Secretary in determining the eligibility of that physician or dentist for performance pay.

''(4) The amount of the performance pay payable to a physician or dentist may vary annually on the basis of individual achievement or attainment of the goals or objectives applicable to the physician or dentist under paragraph (2).

''(5) The amount of performance pay payable to a physician or dentist in a fiscal year shall be determined in accordance with regulations prescribed by the Secretary, but may not exceed the lower of—

''(A) $15,000; or

''(B) the amount equal to 7.5 percent of the sum of the base pay and the market pay payable to such physician or dentist in that fiscal year.

''(6) A failure to meet goals or objectives applicable to a physician or dentist under paragraph (2) may not be the sole basis for an adverse personnel action against that physician or dentist.

''(e) REQUIREMENTS AND LIMITATIONS ON TOTAL PAY.—(1)(A) Not less often than once every two years, the Secretary shall prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid under this section to physicians and the minimum and maximum amounts of annual pay that may be paid under this section to dentists.

''(B) The Secretary may prescribe for Department-wide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or assignment. If the Secretary prescribes separate minimum and maximum amounts for a specialty or assignment, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or assignment and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

''(C) Amounts prescribed under this paragraph shall be published in the Federal Register, and shall not take effect until at least 60 days after the date of publication.

''(2) Except as provided in paragraph (3) and subject to paragraph (4), the sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may not be less than the minimum amount, nor more than the maximum amount, applicable to specialty or assignment of the physician or dentist under paragraph (1).

''(3) The sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may exceed the maximum amount applicable to the specialty or assignment of the physician or dentist under paragraph (1) as a result of an adjustment under paragraph (3) or (4) of subsection (b).

''(4) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

''(f) TREATMENT OF PAY.—Pay under subsections (b) and (c) of this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

''(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—(1) A decrease in pay of a physician or dentist resulting from an adjustment in the amount of market pay of the physician or dentist under subsection (c) shall not be treated as an adverse action.

''(2) If the pay of a physician or dentist is reduced under this subchapter as a result of an involuntary reassignment in connection with a disciplinary action taken against the physician or dentist, the involuntary reassignment shall be subject to appeal under subchapter V of this chapter.

''(h) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c), (d), or (e) except for the responsibilities of the Secretary under subsection (e)(1).

''§ 7432. Pay of Under Secretary for Health

''(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

''(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

''(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

''(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

''(c) TREATMENT OF PAY.—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

''§ 7433. Administrative matters

''(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

''(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) Each report under this subsection shall include the following:

''(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

''(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

''(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

''(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

''(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.''.

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	Rate of Pay:
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$126,000
14	$129,000
15	$132,000.

(d) EFFECTIVE DATE.—(1) Notwithstanding the 60-day waiting requirement in section 7431(e)(1)(C) of title 38, United States Code (as amended by subsection (b)), pay provided for a physician or dentist under subchapter III of chapter 74 of such title, as amended by subsection (b), shall take effect on the first day of the first pay period applicable to such physician or dentist that begins on or after January 1, 2006.

(2) Pay provided for the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, as amended by this section shall take effect on the first day of the first pay period applicable to the Under Secretary that begins on or after January 1, 2006.

(e) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) The amount of the pay payable on and after the date of the enactment of this Act to a physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before such date shall continue to be determined under such section (as in effect on the day before such date) until the effective date that is applicable under subsection (d) to such physician or dentist, as the case may be.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid to a physician or dentist after the effective date of this Act shall not be less than the amount of pay paid to such physician or dentist on the day before the effective date of this Act while such physician or dentist remains in the same position or assignment.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapters I and III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to the Under Secretary.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date applicable under subsection (d) to the Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to the Under Secretary—

(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and

(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(f) CONFORMING AMENDMENTS.—Section 7404 is amended—

(1) in subsection (c), by striking ''special pay'' and inserting ''pay''; and

(2) in subsection (d), by striking ''pay may not be paid'' and all that follows and inserting ''pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.''.

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

''Sec. 7431. Pay.

''Sec. 7432. Pay of Under Secretary for Health.

''Sec. 7433. Administrative matters.''.

SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

''§ 7456A. Nurses: alternate work schedules

''(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

''(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a work week shall be considered for all purposes to have worked a full 40-hour basic work week.

''(B) A nurse who works under the authority in subparagraph (A) shall be considered a 0.90 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

''(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic work week shall be subject to subparagraphs (B) and (C).

''(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the work week shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

''(C) The Secretary shall pay overtime pay to a nurse covered by this paragraph who—

''(i) performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within an administrative work week;

''(ii) for officially ordered or approved service, performs a period of service in excess of 8 hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour of duty falls;

''(iii) performs a period of service in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty work week; or

''(iv) performs a period of service in excess of 40 hours during an administrative work week.

''(D) The Secretary may provide a nurse to whom this subsection applies with additional pay under section 7453 of this title for any period included in a regularly scheduled 12-hour tour of duty.

''(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

''(c) HOLIDAY PAY.—A nurse working a work schedule under subsection (b) that includes a holiday designated by law or Executive order shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on such holiday under such section.

''(d) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full time for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year.

''(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

''(3) Work under this subsection shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

''(4) A nurse who works under the authority in paragraph (1) shall be considered a full-time employee for purposes of chapter 89 of title 5.

''(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each employee with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, that the alternate work schedule will have on the employee's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the employee consents to the alternate work schedule.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

''Sec. 7456A. Nurses: alternate work schedules.''.

(b) POLICY AGAINST CERTAIN WORK HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work hours by nurses providing direct patient care in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period, except in the case of nurses providing emergency care.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work hours by nurses providing direct patient care (other than nurses providing emergency care) in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period.

SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

''(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

''(A) Each Department health care facility.

''(B) The Central Office.

''(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

''(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

''(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.''.

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on intelligence; which was ordered to lie on the table; as follows:

At the end of the resolution, insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security except matters relating to the Coast Guard, to the Transportation Security administration, and to the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as ''S. Res. 400'') is amended by—

(1) inserting ''(A)'' after ''(3)''; and

(2) inserting at the end the following:

''(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.''.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting ''not to exceed'' before ''fifteen members'';

(2) in paragraph (1)(E), by inserting ''not to exceed'' before ''seven''; and

(3) in paragraph (2), by striking the second sentence and inserting ''Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.''.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: ''At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.''.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

''(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman

and Vice Chairman of the select Committee, respectively.''.

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting '', but not less than quarterly,'' after ''periodic''.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

''(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.''.

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

''SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.''.

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 5, 2004, at 2:30 p.m., to conduct a hearing on the nomination of Pamela Hughes Patenaude, of New Hampshire, to be Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, October 5, 2004, at 9:30 a.m., on E-Rate.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to hold a hearing on the Millennium Challenge Corporation: A Progress Report.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 5, 2004, at 10 a.m., in SD–342 to consider the nomination of Gregory Jackson to be an Associate Judge of Columbia Superior Court.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled ''Reducing Childhood Obesity: Public-Private Partnerships to Improve Nutrition and Increase Physical Activity in Children'' during the session of the Senate on Tuesday, October 5, at 10 a.m., in SD–430.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, October 5, 2004, at 10 a.m., in SD–226.

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

COMMITTEE ON RULES AND ADMINISTRATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to conduct a special meeting of the committee to consider a resolution related to recommendations of the National Commission on Terrorist Attacks Upon the United States.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on October 5, 2004, for a markup on the nominations of Robert N. Davis, to be a Judge, U.S. Court of Appeals for Veterans Claims; Mary J. Schoelen, to be a Judge, U.S. Court of Appeals for Veterans Claims; William A. Moorman, to be a Judge, U.S. Court of Appeals for Veterans Claims; and Robert Allen Pittman, to be Assistant Secretary, Human Resources and Administration, U.S. Department of Veterans Affairs.

The meeting will take place in S–216 in the Capitol, immediately following the first rollcall vote of the Senate after 3 p.m.

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

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Nancy Faulk, who is a fellow in my office, be given the privilege of the floor today.

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

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 705, S. 2483.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2483) to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on legislation which was reported, after a unanimous affirmative vote, by the Committee on Veterans' Affairs on July 20, 2004, and which is the subject of my request today that the bill be unanimously approved by the Senate. S. 2483 would grant to nearly 3 million beneficiaries who receive certain ''cash-transfer'' payments from the Department of Veterans Affairs, VA, a cost-of-living adjustment, COLA, increase in their benefits effective with checks received on or after January 1, 2005, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-

transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment that would be made by S. 2483 would be compensation paid to disabled veterans, and dependency and indemnity compensation, so-called ''DIC,'' payments made to the surviving spouses, minor children and other dependents of service members who died in service and to the survivors of former service members who died after service as a result of service-connected injuries or disease.

The impact of the COLA which would be enacted here is outlined in detail in Report 108–351 which accompanied the Committee on Veterans' Affairs approval of the bill on July 20, 2004. In summary, this legislation would grant to VA compensation and DIC beneficiaries the same percentage increase in benefits that will be granted to recipients of Social Security benefits in 2005—that is, an increase equal to the percentage increase in the consumer price index, CPI, for fiscal year 2004 as measured and reported by the Department of Labor's Bureau of Labor Statistics later this year. The President's proposed budget for fiscal year 2005 requested such an increase, then estimated to be 1.3 percent, and the Senate has already concurred with the committee's judgment that such an increase is appropriate with its approval earlier this year of a budget resolution which assumes that such an increase will be enacted and which sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I urge my colleagues to support enactment of this vital legislation and that they ''clear'' the bill for passage today. The bill still must clear the House of Representatives before it is presented to the President. As my colleagues fully understand, the days remaining for the House to take this action are dwindling.

Mr. GRAHAM of Florida. Mr. President, as ranking member of the Committee on Veterans' Affairs, I urge my colleagues to continue to support our veterans and their families by passing H.R. 4175, the proposed Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

The Veterans' Compensation Cost-of-Living Adjustment Act would increase the rate of disability compensation for veterans with service-connected disabilities and the rate of dependency and indemnity compensation for surviving spouses with minor children. This bill requires, effective December 1, 2004, that the Secretary of Veterans Affairs increase the rates of compensation by the same percentage provided to Social Security recipients.

In keeping with the commitment to care for the brave men and women who have served this great Nation, we must make every effort to continue to meet their needs. This legislation ensures that veterans and their families will be able to adjust their incomes to keep pace with inflation and is vital to the financial stability of many veterans and their families who are struggling with the rising costs of goods and services. Our veterans and their families depend on the cost-of-living increase for their livelihood, therefore, it is important that we swiftly move this legislation.

We must demonstrate our commitment to those who have already paid a great price through their selfless service to our Nation. At a time when our airmen, soldiers, sailors, and marines are in harm's way, we must remember the sacrifices that those before them have made on behalf of this grateful Nation by providing this cost-of-living adjustment.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and the Committee on Veterans' Affairs then be discharged from further consideration of H.R. 4175 and the Senate proceed to its consideration; provided that all after enacting clause be stricken and the text of S. 2483 be inserted in lieu thereof; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD. I further ask unanimous consent that S. 2483 be returned to the calendar.

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

The bill (S. 2483) was read the third time.

The bill (H.R. 4175), as amended, was read the third time and passed.

GATEWAY ARCH ILLUMINATION IN HONOR OF BREAST CANCER AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2895, which was introduced earlier today by Senator TALENT.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2895) to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of Breast Cancer Awareness Month.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The bill (S. 2895) was read the third time and passed, as follows:

S. 2895

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

SECTION 1. ILLUMINATION OF GATEWAY ARCH IN HONOR OF BREAST CANCER AWARENESS MONTH.

In honor of breast cancer awareness month, the Secretary of the Interior shall authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights for a certain period of time in October, to be designated by the Secretary of the Interior.

MODIFICATION AND EXTENSION OF CERTAIN PRIVATIZATION REQUIREMENTS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2896, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2896) to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The bill (S. 2896) was read the third time and passed, as follows:

S. 2896

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

SECTION 1. PRIVATIZATION REQUIREMENTS MODIFIED AND EXTENDED.

Section 621(5) of the Communications Satellite Act of 1962 (47 U.S.C. 763) is amended—

(1) in subparagraph (A)(ii), by striking ''June 30, 2004'' and inserting ''June 30, 2005''; and

(2) by adding at the end the following new subparagraph:

''(F) Notwithstanding subparagraphs (A) and (B), a successor entity may be deemed a national corporation and may forgo an initial public offering and public securities listing and still achieve the purposes of this section if—

''(i) the successor entity certifies to the Commission that—

''(I) the successor entity has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in such entity;

''(II) any signatories and former signatories that retain a financial interest in such successor entity do not possess, together or individually, effective control of such successor entity; and

''(III) no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal ownership interest in a successor entity of Inmarsat;

''(ii) the successor entity provides such financial and other information to the Commission as the Commission may require to verify such certification; and

''(iii) the Commission determines, after notice and comment, that the successor entity is in compliance with such certification.

''(G) For purposes of subparagraph (F), the term 'substantial dilution' means that a majority of the financial interests in the successor entity is no longer held or controlled, directly or indirectly, by signatories or former signatories.''.

EXPENDITURES FOR VISITORS CENTER AT LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

Mr. FRIST. I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of S. Res. 420 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 420) recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

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

The resolution (S. Res. 420) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 420

Whereas the United States recognizes that in September 1957, 9 young students changed the course of American history by claiming the right to receive an equal education;

Whereas Ernest Green, Elizabeth Eckford, Jefferson Thomas, Terrence Roberts, Carlotta Walls, Minnijean Brown, Gloria Ray, Thelma Mothershed, and Melba Pattillo, known as the ''Little Rock Nine'', and their parents had the courage necessary to break the bonds of prejudice and desegregation and venture onto the world stage, with full knowledge of the perils and complexities inherent in their endeavor;

Whereas despite their effort to enroll at Little Rock Central High School and receive an education, the Little Rock Nine were met with severe adversity;

Whereas Little Rock Central High School became not only a crucial battleground in the struggle for civil rights, but symbolic of the United States Government's commitment to eliminating separate systems of education for African-Americans and Caucasians;

Whereas the enrollment of the Little Rock Nine was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that he attended the graduation of the first African-American from Little Rock Central High School;

Whereas the sacrificial accomplishments that were made in September 1957 have continuing benefits for the United States today;

Whereas the United States will always revere the accomplishments that 9 young high school students made by showing the Nation and the world that ''all men are created equal'' and the rule of law is paramount in the democracy of the United States;

Whereas the Little Rock Nine were forced to obtain the blessings of liberty that are inherent in the United States Constitution through the intervention of the judicial branch and executive branch of the United States Government;

Whereas existing visitor facilities at Little Rock Central High School are inadequate, resulting in limited opportunities for citizens to learn about civil rights and our Nation's heritage; and

Whereas the legislative branch of the United States Government has the opportunity to appropriately commemorate the legacy that these heroic individuals left by fully funding the design and construction of an informative memorial: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courage displayed by the Little Rock Nine should be commemorated as an example of American sacrifice through extreme adversity;

(2) Congress should fully fund the design and construction of a visitor center at Little Rock Central High School National Historic Site; and

(3) the new facilities should open by September 2007 in order to commemorate the 50th anniversary of the historic events that occurred at Little Rock Central High School.

PROTECTING OLDER AMERICANS FROM FRAUD MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 749, S. Res. 424.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 424) designating October 2004 as Protecting Older Americans From Fraud Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The resolution (S. Res. 424) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 424

Whereas perpetrators of financial crimes frequently target their fraud schemes at older Americans because older Americans possess a large percentage of the individual household wealth in the United States;

Whereas many older Americans have been divested of their hard-earned life savings by fraud and frequently pay a high emotional cost, losing not only their money, but also their self-respect and dignity;

Whereas perpetrators of fraud schemes against older Americans reach their victims through the telephone, the mail, or the Internet;

Whereas the United States Postal Inspection Service responded to nearly 80,000 fraud complaints, arrested 1,453 fraud offenders, secured nearly 1,387 fraud convictions, and initiated 102 civil or administrative actions involving fraud in fiscal year 2003;

Whereas fraud investigations by the United States Postal Inspection Service in fiscal year 2003 resulted in nearly $1,500,000,000 in court-ordered and voluntary restitution payments;

Whereas older Americans are often the disproportionate targets of cross-border fraud, including prize promotions, sweepstakes scams, foreign money offers, advance-fee loans, and foreign lotteries, and file 20 percent of all cross-border fraud complaints;

Whereas there was an 80 percent increase in 2003 of reports of Internet fraud targeting older Americans, and the amount of money lost by older Americans to Internet fraud increased from $2,690,618 in 2002 to $12,818,313 in 2003, a 375 percent increase in money lost;

Whereas the Federal Trade Commission reports that 27,300,000 people in the United States have been victims of identity theft in the last 5 years, including 9,900,000 people in the last year alone, and that identity theft has cost businesses and financial institutions nearly $48,000,000,000, in addition to the reported $5,000,000,000 in out-of-pocket expenses incurred by consumer fraud victims;

Whereas there was a 200 percent increase in 2002 of identity theft targeting older Americans, and credit card fraud is perpetrated against older Americans at a higher rate than the general population of the United States;

Whereas the Federal Trade Commission continues to successfully implement its do-not-call registry, with 60 percent of consumers surveyed stating that they registered and 80 percent of the registered consumers surveyed reporting fewer calls, but more older Americans need to be aware that the do-not-call registry is available;

Whereas fraud schemes targeting older Americans have caused losses estimated at millions of dollars a year, and have cost some older Americans their homes;

Whereas consumer awareness is the best protection from telemarketing, mail, Internet, and identity fraud schemes, and the Federal Trade Commission and the United States Postal Inspection Service have resources available to educate and assist the public; and

Whereas it is vital to increase public awareness of the enormous impact that fraud has on older Americans and to educate the public, older Americans, their families, and their caregivers about a wide array of fraud schemes, such as telemarketing, mail, Internet, and identity fraud, and how to report suspected fraud to the appropriate authorities: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2004 as ''Protecting Older Americans From Fraud Month''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the month with appropriate activities and programs that—

(A) prevent the purveyors of telemarketing, mail, Internet, and identity fraud from victimizing the people of the United States; and

(B) educate and inform the public, older Americans, their families, and their caregivers about a number of financial crimes, such as telemarketing, mail, Internet, and identity fraud.

DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PERSONNEL ENHANCEMENT ACT OF 2004

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 713, S. 2484.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2484) to amend title 38, United States Code, to simplify and improve pay

provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2484

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

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003''.

[SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

[Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

[SEC. 3. IMPROVEMENT AND SIMPLIFICATION OF PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

[(a) Chapter 74 is amended—

[(1) In section 7404b—

[(A) by striking ''(1)'' after ''(b)'';

[(B) by striking the list of position grades under the caption, ''PHYSICIAN AND DENTIST SCHEDULE'' and inserting in lieu thereof the following:

[''Physician grade.

[Dentist grade.''; and

[(C) by striking paragraph (2) in its entirety;

[(2) In section 7404(c) by striking ''special''; and

[(3) By striking Subchapter III in its entirety and inserting in lieu thereof the following sections:

[''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

[''§ 7431. Pay authority

[''(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall establish and periodically adjust the rates of pay for physicians and dentists based upon the factors specified in subsection (b). Total pay shall be benchmarked to representative salaries of non-Department physicians, dentists, and health care clinician-executives.

[''(b) Pay for physicians and dentists employed in the Veterans Health Administration shall have three components:

[''(1) BASE PAY.—This shall be a uniform pay band applicable nationwide. The minimum rate shall be the maximum rate for Chief grade in the Veterans Health Administration Physician and Dentist Pay Schedule in effect on the day before the date of enactment of this Act. The maximum rate may not exceed the rate of basic pay authorized by section 5316 of title 5 for Level V of the Executive Schedule. The Secretary shall adjust annually the minimum rate by the same percentage as the adjustment under section 5303 of title 5 in the rates of pay for the General Schedule, and the maximum rate in accordance with section 5318 of title 5. Administration facilities, under regulations prescribed by the Secretary, may set individual base pay anywhere within the pay band.

[''(2) MARKET PAY.—This shall be a variable pay band based on geographic area, specialty, assignment, personal qualifications, and individual experience, and shall be established and adjusted locally in accordance with regulations prescribed under subsection (c). Administration facilities will set individual market pay in accordance with regulations prescribed by the Secretary. The Under Secretary for Health shall periodically review and recommend to the Secretary adjustments to the market pay band based on published healthcare workforce employment and compensation data. The Secretary may adjust the market pay band periodically based on the recommendations of the Under Secretary and in response to changing health-care labor trends.

[''(3) PERFORMANCE PAY.—

[''(A) There shall be a variable pay band linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives. Physicians and dentists other than those specified in subsection (f)(1) shall not be eligible for this component during the first year of appointment. The amount payable to a physician or dentist for this component may vary based on individual achievement. The performance component paid to any physician or dentist other than those specified in subsection (f)(1) will be in accordance with regulations prescribed by the Secretary and may not exceed $10,000 in a year.

[''(B) In accordance with regulations prescribed by the Secretary, ten percent of the benchmark total pay for physicians and dentists specified in subsection (f)(1) shall be linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives as a performance component. Administration facilities may set the performance pay in accordance with regulations prescribed by the Secretary.

[''(c) Compensation paid under this subchapter shall be considered pay for all purposes, included but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. Notwithstanding the preceding sentence, amounts paid for performance pay under subsection (b)(3)(A) shall not be considered pay for retirement benefits under chapters 83 and 84 of title 5, United States Code.

[''(d) Any decrease in pay that results from an adjustment to the market or performance component of a physician's or dentist's total compensation does not constitute an adverse action.

[''(e) In no case may the total amount of compensation paid to a physician or dentist under this title in any one year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3, United States Code.

[''(f) COVERED POSITIONS.—

[''(1) This subsection applies to physicians and dentists in the following positions: Chiefs of Staff or equivalent facility-level and Network-level clinical management positions (including Network Clinical Service Managers), facility and Network or Regional executive positions (including Network Service Line Coordinators and Medical Center/Health Care System Directors), Central Office executive positions, and such other positions under this title as the Secretary may determine in accordance with regulations prescribed in accordance with section 7434(a).

[''(2) Notwithstanding the special relationships of the Veterans Health Administration with affiliated institutions under section 7302, physicians and dentists serving in covered positions and receiving compensation under this subchapter may not receive any compensation on or after the date specified in regulations issued by the Secretary, through employment or contract with, or negotiate or accept any offer of employment from, any institution or other entity that is affiliated with the VA medical center to which they are assigned, or affiliated with a VA medical center which falls under their official responsibilities. This limitation shall include receiving compensation through or from practice groups or any other entities associated with the affiliated institution(s), or from entities under contract with the affiliated institution(s). Compensation includes anything of monetary value, including but not limited to honoraria, salary, and any fringe benefits such as: tuition waiver, insurance protection, contributions to a retirement fund, payment for books, below-market interest loans, or employee discounts. Nothing in this section precludes physicians and dentists in covered positions from holding uncompensated appointments as other than officer, director, or trustee with affiliated institutions in furtherance of section 7302.

[''(3) Subject to any conditions the Secretary may be regulation prescribe, the Secretary may, on a case-by-case basis, suspend or waive the limitation in paragraph (2) to an individual physician or dentist, when necessary and appropriate to carry out the purposes of section 7302, to assist communities or practice groups to meet medical needs which otherwise would not be met, or where the Secretary determines that suspension or waiver would be in the best interest of the United States. The Secretary shall make any suspension or wavier made pursuant to this paragraph in writing.

[''§ 7432. Transition to new pay system

[''(a) All current special pay agreements entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. Any physician or dentist in receipt of special pay on that date shall continue to be compensated as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter.

[''(b) Physicians and dentists appointed or reassigned on or after the date of enactment of this Act, but before implementation of this subchapter shall be compensated in accordance with sections 7404, 7405, 7433, 7434, 7435, and 7436, as applicable, in effect on the day before the date of enactment of this Act. Any such physician or dentist shall continue to be compensated at the applicable rates until such date specified in regulations issued by the Secretary implementing the new pay system. No special pay agreement will be required of any physician or dentist receiving such pay.

[''(c) During the period from the date of enactment of this Act through the date of implementation of this subchapter, physicians and dentists paid pursuant to this section shall be subject to paragraphs (1), (2), (4), (5), and (6) of subsection (b) of section 7438 in effect on the day before the date of enactment of this Act.

[''(d) The amount of pay paid under this subchapter for a physician or dentist appointed before the effective date of regulations implementing this subchapter shall be not less than the amount of base pay and special pay such physician or dentist received under this title on the day before such effective date.

[''(e) Special pay subject to the provisions of section 7438, as in effect before the date of enactment of this section, or subject to subsection (c), paid to Veterans Health Administration physicians and dentists appointed before the effective date of regulations implementing this subchapter and who separate after such effective date, shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5.

[“§ 7433. Pay for Under Secretary for Health

[“(a) Section 5314 of title 5 establishes the base pay for the Under Secretary for Health at Level III of the Executive Schedule.

[“(b) In addition to base pay under section 5314 of title 5, the Under Secretary for Health shall be eligible for Market Pay under section 7431(b)(2).

[“(c) TRANSITION.—The current special pay agreement of the Under Secretary for Health entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. The incumbent Under Secretary for Health on the date of enactment of this Act shall continue to receive special pay as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter. Any Under Secretary for Health appointed on or after the date of enactment of this Act, but before the date specified in regulations issued by the Secretary implementing this new subchapter, shall receive special pay in accordance with sections 7432(d)(2), 7433, and 7437(a) in effect on the day before the date of enactment of this Act.

[“§ 7434. Administrative provisions

[“(a) After receiving the recommendations of the Under Secretary for Health, the Secretary, pursuant to the authority in section 7421(a), shall prescribe regulations implementing the physician and dentist pay system established in this new subchapter. Such regulations shall include the method for computing the pay for all physicians and dentists in the Veterans Health Administration under this title.

[“(b) Eighteen months after the Secretary issues regulations implementing this subchapter and annually thereafter for the next ten years, the Secretary shall provide to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the authorities under this subchapter. Each report shall include:

[“(1) a description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the previous fiscal year by facility and by specialty;

[“(2) the number of physicians and dentists who left employment with the Veterans Health Administration during the preceding year;

[“(3) the number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled; and

[“(4) an assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

[In addition, the first two reports following implementation of this subchapter shall also include a comparison of staffing levels, contract expenditures, and average salary of physicians and dentists by facility and specialty for the preceding and previous fiscal years.”.

[(b) The title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74 is amended to read as follows:

[“SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

[“Sec. 7431. Pay authority.
[“Sec. 7432. Transition to new pay system.
[“Sec. 7433. Pay for Under Secretary for Health.
[“Sec. 7434. Administrative provisions.”.

[SEC. 4. ALTERNATE WORK SCHEDULES.

[(a) Chapter 74 is amended by adding a new section 7456a:

[“§ 7456a. Alternate work schedules

[“(a) COVERAGE.—This section applies to registered nurses appointed under this chapter.

[“(b) 36/40 WORK SCHEDULE.—

[“(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

[“(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

[“(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

[“(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled three 12-hour tours fall, or in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty, or in excess of 40 hours during an administrative workweek.

[“(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

[“(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

[“(c) 7/7 WORK SCHEDULE.—

[“(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period.

[“(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period shall be subject to subparagraphs (B) and (C).

[“(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

[“(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled seven 10-hour tours fall, or in excess of 10 hours for any day included in the regularly scheduled 70-hour tour of duty, or in excess of 80 hours during a pay period.

[“(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

[“(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

[“(d) 9-MONTH WORK SCHEDULE.—The Secretary may authorize a registered nurse appointed under section 7405, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year. Such employee shall be considered a .75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on this schedule shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

[“(e) The Secretary shall prescribe regulations for the implementation of this section.”.

[(b) The title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 is amended to read as follows:

[“SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

[“Sec. 7451. Nurses and other health-care personnel: competitive pay.
[“Sec. 7452. Nurses and other health-care personnel: administration of pay.
[“Sec. 7453. Nurses: additional pay.
[“Sec. 7454. Physician assistants and other health care professionals: additional pay.
[“Sec. 7455. Increases in rates of basic pay.
[“Sec. 7456. Nurses: special rules for weekend duty.
[“Sec. 7456a. Alternate work schedules.
[“Sec. 7457. On-call pay.
[“Sec. 7458. Recruitment and retention bonus pay.”.

[SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

[(a) Section 7452 is amended by adding at the end thereof:

[“(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary, in accordance with regulations the Secretary shall prescribe, shall pay special pay to the nurse executive at each Department health-care facility or at Central Office.

[“(2) Special pay paid under paragraph (1) shall be a minimum of $10,000 and a maximum of $25,000. The amount paid to each nurse executive shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the health-care facility, e.g., tertiary, single site or multi-site, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors the Secretary deems appropriate.

[“(3) Special pay paid under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the

nurse executive is entitled, and shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.''.

[SEC. 6. EFFECTIVE DATE.

[The amendments to title 38, United States Code, contained herein shall take effect on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

[SEC. 7. ADMINISTRATIVE PROVISION.

[(a) Chapter 74 is amended by adding a new section 7427:

["§ 7427. Functions

[''The functions assigned to the Secretary and other officers of the Department of Veterans Affairs under this chapter are vested in their discretion.'']

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004''.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—Section 7404(b) is amended—

(1) by striking ''(1)'' after ''(b)'';

(2) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

''Physician grade.

''Dentist grade.''; and

(3) by striking paragraph (2).

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Pay

''(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

''(1) Base pay as provided for under subsection (b).

''(2) Market pay as provided for under subsection (c).

''(3) Incentive pay as provided for under subsection (d).

''(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

''(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

''(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

''(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

"For a physician or dentist with total service of:	***The rate of base pay is the rate payable for:***
two years or less	*step 1*
more than 2 years and not more than 4 years	*step 2*
more than 4 years and not more than 6 years	*step 3*
more than 6 years and not more than 8 years	*step 4*
more than 8 years and not more than 10 years	*step 5*
more than 10 years and not more than 12 years	*step 6*
more than 12 years and not more than 14 years	*step 7*
more than 14 years and not more than 16 years	*step 8*
more than 16 years and not more than 18 years	*step 9*
more than 18 years and not more than 20 years	*step 10*
more than 20 years and not more than 22 years	*step 11*
more than 22 years and not more than 24 years	*step 12*
more than 24 years and not more than 26 years	*step 13*
more than 26 years and not more than 28 years	*step 14*
more than 28 years	*step 15.*

''(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase each rate of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

''(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

''(1) Subject to paragraph (3), each physician and dentist is eligible for market pay.

''(2) Market pay shall consist of pay intended to reflect the value to the Veterans Health Administration of the skills, experience, and availability of a particular physician or dentist within a particular health care labor market.

''(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis, subject to paragraph (5). The sum of the total amount of the market pay determined for a physician or dentist under this subsection and the annual rate of base pay payable to the physician or dentist under subsection (b) may not be less than the minimum amount, nor more than the maximum amount, applicable to the physician or dentist under paragraph (4).

''(4)(A) Not less often than once every two years, the Secretary shall prescribe for Departmentwide applicability the minimum and maximum amounts of annual pay (excluding incentive pay under subsection (d)) that may be paid under this section to physicians and the minimum and maximum amounts of annual pay (excluding incentive pay under subsection (d)) that may be paid under this section to dentists.

''(B) The Secretary may prescribe for Departmentwide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or subspecialty. If the Secretary prescribes separate minimum and maximum amounts for a specialty or subspecialty, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or subspecialty and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

''(5)(A) In determining the amount of the market pay for a physician or dentist and determining a tier (if any) to apply to a physician or dentist under paragraph (4)(B), the Secretary shall consult with and consider the recommendations of the Medical Professional Standards Board for the medical facility of the Department at which the physician or dentist is employed, except in the case of a physician or dentist whose market pay is determined under subparagraph (B).

''(B) In the case of a physician or dentist who is a member of a Medical Professional Standards Board, the Secretary shall determine the amount of the market pay and the tier (if any) applicable to the physician or dentist under paragraph (4)(B) in accordance with such procedures and standards as the Secretary shall prescribe. Such procedures and standards shall, to the maximum extent practicable, be similar to the procedures and standards applicable to determinations of the amount of market pay and the tier applicable to physicians and dentists under paragraph (4)(B) who are not members of a board. Under such regulations, no member of a board may participate in or have a consultative role in determining the amount of market pay or tier of such member or any other member of such board.

''(C) A Medical Professional Standards Board consulted under this subparagraph shall consist of at least three and not more than five persons, each of whom is either a physician or a dentist. Not less than a majority of the members of the board shall be practicing clinicians in their professions.

''(6) Subject to paragraph (7), the determination of the amount of market pay of a physician or dentist shall take into account—

''(A) the level of experience of the physician or dentist in the specialty or subspecialty of the physician or dentist;

''(B) the need for the specialty or subspecialty of the physician or dentist at the Department facility concerned;

''(C) the health care labor market for the specialty or subspecialty of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or subspecialty;

''(D) the professional reputation of the physician or dentist;

''(E) the board certifications, if any, of the physician or dentist;

''(F) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

''(G) such other considerations as the Secretary considers appropriate.

''(7) The amount that any consideration specified in paragraph (6) may contribute to the amount of market pay may not exceed, or be less than, such amount as the Secretary may specify in regulations prescribed under section 7433 of this title, or in directives issued for purposes of this subsection.

''(8) In determining amounts of market pay, the Secretary—

''(A) shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by public, private, or quasi-public entities; and

''(B) may utilize the recommendations or assistance of one or more boards of physicians or dentists, as applicable, that are appointed by the Secretary for purposes of this subsection.

''(9) The amount of market pay of a physician or dentist shall be adjusted at such times as the Secretary considers appropriate in order to ensure the retention of qualified physicians and dentists by the Veterans Health Administration.

''(10) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is increased by reason of an evaluation under this paragraph shall receive written notice of the increase in accordance with procedures prescribed under section 7433 of this title.

''(11) No adjustment of the amount of market pay of a physician or dentist under paragraph (9) or (10) may result in a reduction of the amount of market pay of the physician or dentist.

''(d) INCENTIVE PAY.—One element of pay for physicians and dentists shall be incentive pay. Incentive pay shall meet the following requirements:

''(1) Each physician and dentist is eligible for incentive pay.

''(2) Incentive pay shall consist of an amount intended to recognize outstanding contributions by a physician or dentist to—

''(A) the facility in which employed;

''(B) the furnishing of care to veterans; or

''(C) the practice of medicine or dentistry, as applicable.

''(3) The amount of incentive pay shall be determined for a physician or dentist by the Secretary.

''(4) The amount of incentive pay shall be determined for a physician or dentist on a case-by-case basis.

''(5) The amount of incentive pay paid to a physician or dentist in a calendar year may not exceed $10,000.

''(e) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c) or (d), except for the responsibilities of the Secretary under subsection (c)(4).

''(f) LIMITATION ON TOTAL COMPENSATION.—In no case may the total amount of compensation paid to a physician or dentist under this section in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

''(g) TREATMENT OF PAY.—(1) Except as provided in paragraph (2), pay under this subchapter shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

''(2) Incentive pay under subsection (d) shall not be considered pay for purposes of retirement benefits under chapters 83 and 84 of title 5.

''(h) DECREASES IN CERTAIN PAY NOT TREATABLE AS ADVERSE ACTION.—A decrease in pay of a physician or dentist resulting from an adjustment in the amount of incentive pay of the physician or dentist under subsection (d) shall not be treated as an adverse action.

''§ 7432. Pay of Under Secretary for Health

''(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

''(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

''(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

''(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

''§ 7433. Administrative matters

''(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter.

''(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 10 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) Each report under this subsection shall include the following:

''(A) A description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the fiscal year preceding fiscal year, set forth by facility and by specialty.

''(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

''(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

''(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

''(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the fiscal year preceding such report and for the fiscal year preceding such fiscal year, set forth by facility and by specialty.''.

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	Rate of Pay:
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$127,000
14	$130,000
15	$133,000.

(d) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) A physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before the date of the enactment of this Act shall continue to receive pay under such section (as in effect on the day before the date of the enactment of this Act) until the effective date of this Act under section 8 of this Act.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date of this Act, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until the effective date of this Act.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date of this Act.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date of this Act. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid under subparagraph (B) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid under subchapter III of chapter 74 of title 38, United States Code (as amended by subsection (a)), to a physician or dentist appointed or reassigned before the effective date of this Act may be not less than the aggregate amount of pay and special pay paid to the physician or dentist under chapter 74 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), as of the day before the effective date of this Act.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date of this Act.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date of this Act shall be paid special pay in accordance with the provisions of section 7432(d)(2), 7433, and 7437(a) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on the effective date of this Act. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(e) CONFORMING AMENDMENT.—Section 7404(c) is amended by striking ''special pay'' and inserting ''pay''.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

''Sec. 7431. Pay.
''Sec. 7432. Pay of Under Secretary for Health.
''Sec. 7433. Administrative matters.''.

SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

''§ 7456A. Nurses: alternate work schedules

''(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

''(b) 36/40 WORK SCHEDULE.—(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with

personnel ceilings) to have worked a full 40-hour basic workweek.

''(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

''(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

''(C)(i) A nurse covered by this paragraph is entitled to overtime pay for work performed in such periods as the Secretary shall prescribe.

''(ii) Except as otherwise provided in clause (i), a nurse covered by this paragraph is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

''(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

''(4) A nurse working a work schedule under this subsection shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on a designated holiday under such section, regardless of whether such holiday occurs during or outside the nurse's regularly scheduled tour of duty under such work schedule.

''(c) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work fulltime for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the fulltime rate for such nurse's grade for each pay period of such fiscal year.

''(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 fulltime equivalent employee in computing fulltime equivalent employees for the purposes of determining compliance with personnel ceilings.

''(3) Work under this subsection shall be considered parttime service for purposes of computing benefits under chapters 83 and 84 of title 5.

''(4) A nurse who works under the authority in paragraph (1) shall be considered a fulltime employee for purposes of chapter 89 of title 5.

''(d) TREATMENT AS FULL-TIME EMPLOYEE.—(1) A nurse working a work schedule under subsection (b) or (c) who is a full-time employee in non-probationary status at the commencement of work under such work schedule shall remain a full-time employee in non-probationary status while working under such work schedule.

''(2)(A) A nurse under a part-time appointment under section 7405(d) of this title who, while working a work schedule under subsection (b) or (c), performs hours of service (as determined in accordance with such subsection) equivalent to two years of service shall be treated as a full-time employee and no longer in probationary status.

''(B) In determining the hours of service performed by a nurse for purposes of subparagraph (A), any hours of service not performed under a work schedule under subsection (b) or (c) shall not be included.

''(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each nurse with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, the alternate work schedule will have on the nurse's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the nurse consents to the alternate work schedule.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

''Sec. 7456A. Nurses: alternate work schedules.''.

(b) POLICY AGAINST WORK SHIFTS IN EXCESS OF 12 HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work shifts by nurses providing direct patient care in excess of 12 hours in any 24 hour period.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work shifts by nurses providing direct patient care in excess of 12 hours in any 24 hour period.

(c) REPORT ON OVERTIME FOR CERTAIN NURSES.—(1) Not later than one year after the effective date of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the overtime, if any, worked by nurses covered by work schedules described by subsections (b) and (c) of section 7456A of title 38, United States Code (as added by subsection (a)), during the one-year period ending on the date of such report.

(2) The report shall set forth—

(A) the aggregate number of hours of overtime worked by nurses under each such work schedule during the one-year period ending on the date of the report; and

(B) the aggregate amount of overtime pay paid to nurses working under each such work schedule during such period.

SEC. 5. RATE OF PAY FOR DIRECTOR OF NURSING SERVICE.

(a) SENIOR EXECUTIVE SERVICE ES–6 RATE.—(1) Subchapter IV of chapter 74 is amended by adding at the end the following new section:

''§ 7459. Director of Nursing Service: rate of pay

''(a) SENIOR EXECUTIVE SERVICE ES–6 RATE.—The rate of pay for the Director of Nursing Service shall be equal to the sum of the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5 and the amount of the locality-based comparability payment provided under section 5304 of such title for the Director's locality.

''(b) INAPPLICABILITY OF NURSE PAY PROVISION.—Section 7451 of this title does not apply to the Director of Nursing Service.''.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7458 the following new item:

''Sec. 7459. Director of Nursing Service: rate of pay.''.

(b) CONFORMING AMENDMENT.—Section 7404(d) is amended by striking ''section 7457'' and inserting ''sections 7457 and 7459''.

SEC. 6. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

''(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

''(A) Each Department healthcare facility.

''(B) The Central Office.

''(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

''(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the healthcare facility concerned, the nature and number of specialty care units at the healthcare facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the healthcare facility concerned, and such other factors as the Secretary considers appropriate.

''(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.''.

SEC. 7. CLARIFICATION OF DISCRETIONARY NATURE OF VETERANS HEALTH ADMINISTRATION PERSONNEL ADMINISTRATION AUTHORITIES.

(a) IN GENERAL.—Chapter 74 is amended by inserting after section 7426 the following new section:

''§ 7427. Discretionary nature of functions

''Any authority assigned to the Secretary or another officer of the Department under this chapter shall be carried out at the discretion of the Secretary or other officer, as the case may be.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7426 the following new item:

''7427. Discretionary nature of functions.''.

SEC. 8. EFFECTIVE DATE.

The amendments to title 38, United States Code, made by this Act shall take effect one year after the date of the enactment of this Act.

Mr. SPECTER. Mr. President, I seek recognition today to ask for Senate approval of a manager's amendment to S. 2484, the proposed ''Department of Veterans Affairs Personnel Enhancement Act of 2004,'' and to ask for Senate approval of the bill as so amended. This amendment was developed in consultation with, and it has been approved by, the ranking member of the Senate Veterans' Affairs Committee, Senator BOB GRAHAM.

I introduced S. 2484 on June 1, 2004 at the request of the administration. That bill, in the form I introduced it, and as it was amended prior to its approval by the Senate Committee on Veterans' Affairs on July 20, 2004, is already explained in Senate Report 108–357. Accordingly, I will not detail provisions of the bill that are already explained in the Committee Report. Rather, I will confine this explanation to highlighting how the bill as now further amended—the ''Manager's bill''—would modify the reported bill.

Section 3 of the reported bill makes changes in the system used by the Department of Veterans Affairs—VA—to compensate its physicians and dentists. The managers' bill contains many changes to this section. Some are primarily technical in nature and are designed to assure that the language of the bill actually accomplishes its intended purpose. These changes would, among other things, clarify how VA physicians' and dentists' retirement credits will be computed during the transition from the current to the new pay system; assure that statutory language requiring comparability pay increases is consistent with language in other Federal pay system statutes; and specify that physicians and dentists who work in VA headquarters will also

be eligible for pay under the new pay system.

Other changes made to section 3 of the reported bill are more substantive. Almost entirely, they respond to comments that were made on the reported bill by VA officials, by VA employee representatives, by physician and dentist professional organizations, and by the staffs of interested Senators, and by the staff of the House of Representatives' Committee on Veterans' Affairs. First, there are two changes that would foster more public awareness of, and input on, decisions made by VA that would affect the pay of physicians and dentists. One change would require that the VA Secretary publish in the Federal Register any updates in the national ''pay bands'' he or she might establish under authority of this legislation; another would require VA's Under Secretary for Health to solicit the views of exclusive employee representatives and physicians' and dentists' professional organizations before making recommendations to the Secretary on ''pay band'' modifications or other regulatory changes.

Second, the Managers' bill would modify the reported bill's requirement that VA consult local Medical Professional Standards Boards—PSBs—prior to making decisions concerning the pay of physicians or dentists. It would only be required that an appropriate panel of physicians or dentists, as applicable, be consulted since not all VA facilities have an appropriate PSB in place. The managers' bill would also excise references to the required size of the board.

Third, the Managers' bill would require VA to provide a physician or dentist written notice of decisions made by VA concerning his or her ''market-based'' pay. Under the reported bill, such notification was only required in the event a physician's or dentist's pay were to increase.

Fourth, the Managers' bill would create an exception to the general rule contained in the reported bill that a physician's or dentist's pay may not be reduced during his or her tenure with VA. The managers' amendment would permit VA to change pay—and reduce pay—if a physician or dentist changes his or her assignment within a medical facility or moves from one VA facility to another. For example, if VA were to hire a cardiologist at the prevailing market salary for a practicing cardiologist, but that physician later becomes a VA primary care physician, VA would be allowed to adjust his or her pay to the primary care physician level. Similarly, if a physician is hired in Manhattan at a Manhattan salary and later transfers to the DesMoines VA Medical Center, VA would be allowed to adjust his or her pay to DesMoines market rates. In cases where the move or change in assignment is involuntary due, for example, to disciplinary action, VA would be required to afford the employee an opportunity to appeal.

Fifth, the reported bill included a provision which would have allowed VA to award ''incentive pay'' of up to $10,000 to physicians or dentists in recognition of outstanding contributions to the facility, to the care of veterans, or to the practice of medicine or dentistry. It was suggested that these standards were too general. In response, the managers' bill specifies that such pay—renamed ''performance pay''—would be awarded on the basis of the physician's or dentist's achievement of specific goals or objectives as revealed by the Secretary in advance. Additionally, the managers' bill would raise the amount payable as ''performance pay'' to $15,000 annually or 7.5 percent of the sum of a physician's or dentist's base and market pay, whichever is lower. Inasmuch as the achievement of ''performance pay'' objectives are intended to be encouraged only by the ''positive reinforcement'' of a prospective bonus, the managers' bill would prohibit VA from taking disciplinary actions against physicians or dentists for failing to meet goals outlined under this program.

Finally, the managers' bill, at VA's request, would make all of the changes to the VA physician and dentist compensation system effective the first pay period following January 1, 2006.

Section 4 of the reported bill authorizes alternate work schedules for VA nurses. The managers' bill makes a number of technical changes, and two substantive changes. On the technical side, the managers' bill, for example, clarifies the full-time vs. part-time status of nurses working alternate schedules and specifies a requirement that VA provide notice to employees whose benefits might change under a new work schedule. Substantively, one modification would require that VA pay overtime to nurses on a 36/40 schedule in three instances: when work over 12 hours in one day is performed; when more than 40 hours are worked in an administrative work week; and when more than 8 hours are worked on a day not originally scheduled for a 12-hour shift. Each of these over-time scenarios is consistent with current practice; the change is made purely to ensure maintenance of the status quo. A second substantive change would express the Sense of the Congress that VA should prevent work hours by nurses in excess of 12 consecutive hours or over 60 hours in any seven-day period, and require VA to certify to Congress that each VA facility has policies in place designed to prevent nurses from working more than these tours of duty. The patient safety-related reasons for these requirements are explained in Senate Report 108–357.

Section 5 of the reported bill would have provided a pay increase for the Director of Nursing Services in VA's Central Office. Due to disagreements concerning the implementation of this section of the bill, action on this proposed pay increase is deferred.

The substance of Section 6 of the reported bill is unchanged. It is merely renumbered in light of the removal of section 5.

Section 7 of the reported bill would have clarified VA authority with respect to certain personnel decisions. This provision, requested by VA as a purely technical ''clarification'' of existing law, was subject to much discussion and debate among VA officials, Committee staff, and employee representatives. It was taken by employee representatives to be a ''stealth attempt'' by VA to circumvent current collective bargaining agreements. The Committee does not ascribe such motives to VA, but it has withdrawn this provision from the managers' bill.

Section 8 of the reported bill specified that all provisions of the bill would have been effective one year following the date of enactment. Section 3 of the managers' bill changes the effective date applicable to that provision to the first pay period following January 1, 2006. The other provisions of the managers' bill would now take effect upon enactment of the managers' bill.

This legislation is the product of almost unprecedented open negotiation with very senior VA officials, unions representing Government employees, professional representatives of VA physicians and dentists, and other interested persons. This unprecedented ''sunshine'' has resulted, I think, in an exceptional bill. But for the extraordinary efforts of VA, union, and professional organization officials to resolve their differences in good faith, this improved managers' bill could not have emerged. They and the Congressional staff are to be complimented. But the efforts of one person—Mr. William T. Cahill, the Veterans Affairs Committee's Health Policy Counsel—deserve to be singled out for recognition. But for his steadfast and determined efforts to push this project through numerous impasses that had impeded its development, we would not have gotten to this day.

Mr. GRAHAM. Mr. President, I rise today to urge swift passage of S. 2484, which reflects a compromise agreement on a new system for compensating physicians and dentists in the Department of Veterans Affairs' VA health care system, as well as alternative work schedules for VA nurses. VA doctors and dentists have not gotten a pay adjustment in over a decade. All of these measures are aimed at improving VA's ability to recruit and retain quality health care professionals. I would like to highlight some of the key aspects of this legislation.

The compromise agreement sets forth a three-tiered system for paying VA physicians and dentists. The three tiers consist of base, market, and performance pay. The base pay element is similar to that employed by other Federal agencies, also known as the General Schedule GS—system. As such, increases are guaranteed for every 2 years a physician or dentist remains employed by VA.

The second component of the new pay system is market pay. This element will be implemented by the Secretary in the form of pay bands that will be determined by surveys of regional salaries in the academic and private sectors. Also relevant to the market pay determinations are factors such as the scarcity—or abundance—of certain specialty physicians, type and years of experience, and board certifications. Finally, the Secretary will consult with professional review panels composed of other physicians or dentists.

The final component is performance pay. Performance pay will be awarded to doctors and dentists if they meet certain goals and measures set forth by the Secretary. Currently, VA has extensive performance measures that it utilizes to motivate its health care providers and ensure quality of care. This element has a maximum of $15,000 or 7.5 percent of the sum of the base and market pay.

One other major section of this agreement establishes alternative work schedules for VA nurses. It is widely known that the entire country is suffering from a nursing shortage. VA anticipates that it will be hit especially hard by the retirement of a significant portion of its nursing workforce over the next 10 years. S. 2484 allows VA to employ different types of working schedules in order to attract more nurses to the system.

I am proud to have worked on this valuable piece of legislation for our Nation's veterans.

Mr. FRIST. I ask unanimous consent the substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the amendment to the title be agreed to, the motions to reconsider be laid on the table en bloc, and any statements be printed in the RECORD.

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

The amendment (2973) was agreed to.

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

The committee amendment in the nature of a substitute, as amended was agreed to.

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

The bill (S. 2484), as amended, was passed.

The title was amended so as to read:

''An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.''.

ORDERS FOR WEDNESDAY, OCTOBER 6, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, October 6. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business for up to 30 minutes, with the first half under the control of the majority leader and the second half under the control of the minority leader; further, that the Senate then resume consideration of S. 2845, the intelligence reform bill, as provided under the previous order; provided further that the debate prior to 11:30 be equally divided between the two managers, and that 15 minutes of that time be under the control of Senators WARNER and LEVIN.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning the Senate will continue debate on the intelligence reform bill. Under a previous order, at 11:30 a.m. there will be a series of stacked votes on amendments to the bill. Following those votes, the Senate will continue working through the remaining amendments to the bill, and Senators should expect votes throughout the day.

I remind my colleagues that postcloture debate will expire late tomorrow afternoon. If we use all the remaining time, Senators should expect a stacked series of votes which will include any remaining pending amendments and final passage. It is my hope that we will not use all postcloture debate time.

In addition, I encourage Members to work together to dispose of as many amendments as possible in order to avoid a ''mini vote-arama.'' Tomorrow will be a very busy day. I ask all Senators to plan accordingly.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator TALENT.

THANKING SENATORS

Mr. FRIST. Mr. President, shortly I will go into a quorum call while we wait a few minutes for Senator TALENT, but let me thank my colleagues on both sides of the aisle. We have had a very productive day, a very productive week. We set out with an objective several weeks ago of completing this very important intelligence reform bill. With the cooperation of all of our colleagues, we will complete this bill tomorrow.

Following completion of that bill, we will proceed to our internal Senate oversight reforms, and look forward to hopefully addressing that late tomorrow afternoon.

There are a number of other issues we laid out in the course of the day that are underway, including the FSC/ETI jobs manufacturing bill and the Homeland Security Appropriations bill. So we have a lot of work to do in a short period of time during the remainder of this week.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ILLUMINATION OF THE GATEWAY ARCH IN ST. LOUIS

Mr. TALENT. Mr. President, I rise tonight in support of legislation which I have sponsored along with Senator BOND that would authorize the Secretary of the Interior to illuminate the gateway arch with pink lighting in honor of Breast Cancer Awareness Month. I want to say how much I appreciate the cooperation from both sides of the aisle on this important measure so that we can get it done and passed in time to honor those who have struggled against this disease during that month which has been set aside to recognize what they have done.

It is amazing how many American families have been touched by this disease. Speaking personally, my mother fought and eventually lost the battle against breast cancer. Her struggle certainly had a profound impact on me and on my family.

Currently, breast cancer is the second leading cause of cancer deaths for women in the United States. Approximately 40,000 women in this country will die from the disease in 2004, and the American Cancer Society estimates that a woman in the United States has a 1 in 7 chance of developing invasive breast cancer during her lifetime, and this risk was 1 in 11 in 1975.

For the past 20 years, October has been designated as Breast Cancer Awareness Month. Events around the world are dedicated to spreading the message of early detection so that prevention and the ongoing search for a cure can continue. Throughout the month, women are reminded in many ways that regular screening for breast cancer continues to be the most effective way to detect this disease in its earliest stages and therefore save lives.

Recently, I was contacted by a group of Missourians who wanted to highlight the need for breast cancer awareness. They wanted to illuminate the arch, which is, of course, a landmark not only in Missouri but in the country—a landmark with both national and local significance. They wanted to illuminate it with pink lighting in order to commemorate Breast Cancer Awareness Month. People everywhere associate the pink ribbon and the color pink as a symbol of breast cancer

awareness and the ongoing search for the cure.

Lighting the arch with pink lighting will also recognize the millions of women who are currently battling breast cancer and those who have lost their lives fighting their disease.

The bill I introduced will give the Secretary of the Interior the authority to allow for that kind of lighting of the arch one night in October. I am hopeful that women not only in Missouri but all around the country and around the world will see the arch and take the message of that lighting to heart.

I am very grateful to the majority leadership and the Democratic leadership as well for clearing this bill. I am grateful to the Senate for passing it by unanimous consent this evening.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 8:17 p.m., adjourned until Wednesday, October 6, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 2004:

FEDERAL HOUSING FINANCE BOARD

RONALD ROSENFELD, OF OKLAHOMA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 27, 2009, VICE JOHN THOMAS KORSMO, RESIGNED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MICHAEL BUTLER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008, VICE ERIC D. EBERHARD, TERM EXPIRED.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S10381–S10468

Measures Introduced: Twelve bills and two resolutions were introduced, as follows: S. 2887–2898, S. Res. 447, and S. Con. Res. 140. **Page S10436**

Measures Reported:

H.R. 2608, to reauthorize the National Earthquake Hazards Reduction Program. (S. Rept. No. 108–385)

S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence. **Page S10436**

Measures Passed:

Presidential Pardon: Senate agreed to S. Res. 447, expressing the sense of the Senate that the President of the United States should exercise his Constitutional Authority to pardon posthumously John Arthur ''Jack'' Johnson for Mr. Johnson's racially-motivated 1913 conviction that diminished his athletic, cultural, and historic significance, and unduly tarnished his reputation. **Pages S10417–19**

Veterans' Compensation Cost-Of-Living Adjustment Act: Committee on Veterans' Affairs was discharged from further consideration of H.R. 4175, to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and the bill was then passed after striking all after the enacting clause and inserting in lieu thereof the text of S. 2483, Senate companion-measure. **Pages S10458–59**

Subsequently, S. 2483 was returned to the Senate calendar. **Page S10459**

St. Louis Gateway Arch Lighting: Senate passed S. 2895, to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month. **Page S10459**

Communications Satellite Act: Senate passed S. 2896, to modify and extend certain privatization requirements of the Communications Satellite Act of 1962. **Page S10459**

Little Rock Central High School National Historic Site: Committee on Energy and Natural Resources was discharged from further consideration of S. Res. 420, recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School, and the resolution was then agreed to. **Page S10460**

Protecting Older Americans From Fraud Month: Senate agreed to S. Res. 424, designating October 2004 as ''Protecting Older Americans From Fraud Month''. **Page S10460**

Department of Veterans Affairs Health Care Personnel Enhancement Act: Senate passed S. 2484, to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S10460–67**

Frist (for Specter) Amendment No. 3973, in the nature of a substitute. **Page S10467**

National Intelligence Reform Act: Senate continued consideration of S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, taking action on the following amendments proposed thereto: **Pages S10384–88, S10390–S10400, S10400–17**

Adopted:

Collins (for Cantwell) Modified Amendment No. 3933, to require biometric identification information on travel documents of aliens seeking to enter the United States. **Pages S10384, S10394–95**

Collins/Lieberman Amendment No. 3957, to provide for certain revisions to the bill, including providing for permanent authority for the Public Interest Declassification Board, and for homeland security civil rights and civil liberties protection. **Page S10384**

Collins (for Rockefeller) Modified Amendment No. 3712, to provide improved aviation security. **Pages S10384–88**

Collins (for Baucus) Further Modified Amendment No. 3768, to require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury. **Pages S10384–88, S10391**

Feinstein Modified Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation. **Pages S10390, S10391–92**

Collins (for Gregg) Modified Amendment No. 3934, to enhance the role of the Federal Bureau of Investigation in its intelligence and law enforcement missions. **Page S10394**

Withdrawn:

Chambliss Amendment No. 3710, to provide for the establishment of a unified combatant command for military intelligence. **Pages S10392–94**

Roberts Amendment No. 3739, to ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis. **Pages S10390, S10398**

Roberts Amendment No. 3750, to clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis. **Pages S10390, S10398**

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each. **Pages S10390, S10416**

Pending:

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight. **Page S10390**

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding. **Page S10390**

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation. **Page S10390**

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board. **Page S10390**

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States. **Pages S10390–91**

Stevens Amendment No. 3827, to strike section 206, relating to information sharing. **Page S10391**

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority. **Page S10391**

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority. **Page S10391**

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform. **Page S10391**

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities. **Page S10391**

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program. **Page S10391**

Stevens Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency. **Page S10391**

Warner Amendment No. 3875, to clarify the definition of National Intelligence Program. **Page S10391**

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas. **Page S10391**

Reid (for Leahy) Amendment No. 3916, to strengthen civil liberties protections. **Page S10391**

Reid (for Leahy) Amendment No. 3915, to establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center. **Page S10391**

Collins (for Frist) Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority. **Page S10391**

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees. **Page S10391**

During consideration of this measure today, Senate also took the following action:

By 85 yeas to 10 nays (Vote No. 197), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the bill. **Page S10391**

Chair sustained certain points of order against the following amendments:

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3891, to improve rail security. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3892, to strengthen border security. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States. **Pages S10390, S10398**

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity. **Pages S10390, S10398**

Reed Amendment No. 3908, to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security. **Pages S10390, S10398**

Reid (for Corzine/Lautenberg) Amendment No. 3849, to protect human health and the environment from the release of hazardous substances by acts of terrorism. **Pages S10390, S10398**

Reid (for Lautenberg) Amendment No. 3782, to require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities. **Pages S10390, S10398**

Reid (for Lautenberg) Amendment No. 3905, to provide for maritime transportation security. **Pages S10390, S10398**

Roberts Amendment No. 3747, to provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority. **Pages S10391, S10398**

Kyl Amendment No. 3881, to protect crime victims' rights. **Pages S10391, S10398**

Kyl Amendment No. 3724, to strengthen antiterrorism investigative tools, promote information sharing, punish terrorist offenses. **Pages S10391, S10398**

Sessions Amendment No. 3928, to require aliens to make an oath prior to receiving a nonimmigrant visa. **Pages S10391, S10398**

Sessions Amendment No. 3873, to protect railroad carriers and mass transportation from terrorism. **Pages S10391, S10398**

Sessions Amendment No. 3871, to provide for enhanced Federal, State, and local enforcement of the immigration laws. **Pages S10391, S10398**

Sessions Amendment No. 3870, to make information sharing permanent under the USA PATRIOT Act. **Pages S10391, S10398**

Collins (for Cornyn) Amendment No. 3803, to provide for enhanced criminal penalties for crimes related to alien smuggling. **Pages S10391, S10398**

Frist (for McConnell) Amendment No. 3930, to clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act. **Pages S10391, S10398**

Frist (for McConnell) Amendment No. 3931, to remove civil liability barriers that discourage the donation of equipment to volunteer fire companies. **Pages S10391, S10398**

Warner Amendment No. 3874, to provide for the treatment of programs, projects, and activities within the Joint Military Intelligence Program and Tactical Intelligence and Related Activities programs as of the date of the enactment of the Act. **Pages S10391, S10398**

Sessions (for Grassley) Amendment No. 3850, to require the inclusion of information regarding visa revocations in the National Crime Information Center database. **Pages S10391, S10398**

Sessions (for Grassley) Amendment No. 3851, to clarify the effects of revocation of a visa. **Pages S10391, S10398**

Sessions (for Grassley) Amendment No. 3855, to combat money laundering and terrorist financing, to increase the penalties for smuggling goods into the United States. **Pages S10391, S10398**

Sessions (for Grassley) Amendment No. 3856, to establish a United States drug interdiction coordinator for Federal agencies. **Pages S10391, S10398**

Sessions/Ensign Amendment No. 3872, to amend the Immigration and Nationality Act to require fingerprints on United States passports and to require countries desiring to participate in the Visa Waiver Program to issue passports that conform to the biometric standards required for United States passports. **Pages S10391, S10398**

Kyl Amendment No. 3926, to amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States. **Pages S10391, S10398**

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators. **Pages S10390, S10398**

Subsequently, the aforementioned amendments were ruled out of order since they were not germane to the bill under the provisions of Rule 22. **Page S10398**

Subsequently, Collins (for Inhofe) Amendment No. 3946 (to Amendment No. 3849), in the nature of a substitute, fell when Amendment No. 3849 (listed above) was ruled out of order. **Page S10391**

Lieberman (for Bingaman) Amendment No. 3814, to provide the sense of Congress that United States foreign assistance should be provided to South Asia, Southeast Asia, West Africa, the Horn of Africa,

North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America to prevent the establishment of terrorist sanctuaries, previously agreed to on Monday, October 4, 2004, was modified by unanimous consent. **Page S10417**

A unanimous-consent agreement was reached providing that notwithstanding the adjournment of the Senate or other business before the Senate, all time be counted as post-cloture time on the bill; provided further, that at 11:30 a.m. on Wednesday, October 6, 2004, Senate begin a series of rollcall votes on the pending amendments in the order offered; further that there be two minutes equally divided prior to each vote, with no second degree amendments in order to the amendments prior to the votes; provided further, that the voting sequence end at Amendment No. 3916. **Page S10419**

A unanimous-consent agreement was reached providing that it be in order for the Managers, with the concurrence of the two Leaders, to send a Managers' amendment to the desk, prior to passage of the bill. **Page S10419**

A unanimous-consent agreement was reached providing that following conclusion of those votes and the expiration of any remaining time under Rule XXII, Senate vote on any qualified amendment, to be followed by third reading and a vote on passage of the bill as amended, with no intervening action or debate. **Page S10419**

Intelligence Committee Reform—Agreement: A unanimous-consent agreement was reached providing that following passage of S. 2845 (listed above), Senate begin consideration of S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence. **Page S10419**

Nominations Received: Senate received the following nominations:

Ronald Rosenfeld, of Oklahoma, to be a Director of the Federal Housing Finance Board for the remainder of the term expiring February 27, 2009.

Michael Butler, of Tennessee, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008. **Page S10468**

Messages From the House: **Pages S10434–35**

Executive Communications: **Pages S10435–36**

Additional Cosponsors: **Pages S10436–37**

Statements on Introduced Bills/Resolutions: **Pages S10437–46**

Additional Statements: **Pages S10431–34**

Amendments Submitted: **Pages S10446–58**

Authority for Committees to Meet: **Page S10458**

Privilege of the Floor: **Page S10458**

Record Votes: One record vote was taken today. (Total—197) **Page S10391**

Adjournment: Senate convened at 9 a.m., and adjourned at 8:17 p.m., until 9:30 a.m., on Wednesday, October 6, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S10467.)

Committee Meetings

(Committees not listed did not meet)

NOMINATION

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the nomination of Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development for Community Planning and Development, after the nominee, who was introduced by Representative Bradley, testified and answered questions in her own behalf.

UNIVERSAL SERVICE E-RATE PROGRAM

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine waste, fraud, and abuse issues relating to Universal Service E-rate program, after receiving testimony from Thomas Bennett, Assistant Inspector General for USF Oversight, and Tom Cline, Assistant Inspector General for Audits, both of the Federal Communications Commission; George McDonald and Frank Gumper, both of the Universal Service Administrative Company, Washington, D.C.; and Winston E. Himsworth, E-Rate Central, Seaford, New York, on behalf of the State E-rate Coordinator's Alliance.

MILLENNIUM CHALLENGE CORPORATION

Committee on Foreign Relations: Committee concluded a hearing to examine the progress and future performance of the Millennium Challenge Corporation (MCC), focusing on the size of the foreign aid commitment, the competitive selection process for MCC funds, the separation from the strategic foreign policy goals of the United States, and civil society proposals in each country, after receiving testimony from Paul V. Applegarth, Chief Executive Officer, Millennium Challenge Corporation, Department of State.

NOMINATION

Committee on Governmental Affairs: Committee concluded a hearing to examine the nomination of Gregory E. Jackson, to be an Associate Judge of the Superior Court of the District of Columbia, after the

nominee, who was introduced by District of Columbia Delegate Norton, testified and answered questions in his own behalf.

CHILDHOOD OBESITY PREVENTION

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine public-private partnerships to improve nutrition and increase physical activity in children, after receiving testimony from Senator Wyden; Dixie E. Snider, Jr., Acting Chief of Science, Centers for Disease Control and Prevention, and Lynn C. Swann, Chairman, President's Council on Physical Fitness and Sports, Office of Public Health and Science, both of the Department of Health and Human Services; William Potts-Datema, Harvard School of Public Health Partnerships for Children's Health, Boston, Massachusetts, on behalf of Action for Healthy Kids; Ross C. Brownson, Saint Louis University School of Public Health Department of Community Health, St. Louis, Missouri; and Gary M. DeStefano, Nike Corporation, Lake Oswego, Oregon.

PRESIDENTIAL ELIGIBILITY

Committee on the Judiciary: Committee concluded a hearing to examine proposals to define the term ''natural born Citizen'' as used in the Constitution of the United States to establish eligibility for the Office of the President, including related measures S. 2128 and S.J. Res.15, after receiving testimony from Senator Nickles; Representatives Conyers, Snyder, Frank, Rohrabacher, and Issa; Akhil Reed Amar, Yale University School of Law, New Haven, Connecticut; Matthew Spalding, The Heritage Foundation, Washington, D.C.; and John Yinger, Syracuse University Maxwell School of Citizenship and Public Affairs, Syracuse, New York.

BUSINESS MEETING

Committee on Rules and Administration: Committee ordered favorably reported S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

House of Representatives

Chamber Action

Measures Introduced: Measures introduced today will appear in the next edition of the Record.

Additional Cosponsors: **(See next issue.)**

Reports Filed: Reports were filed today as follows:

H.R. 10, to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination amended, (H. Rept. 108–724, Pts. 4 and 5);

H.R. 5011, to prevent the sale of abusive insurance and investment products to military personnel, amended (H. Rept. 108–725);

H.R. 3858, to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation (H. Rept. 108–726);

H.R. 918, to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services, amended (H. Rept. 108–727, Pt. 1);

H.R. 3015, to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance, amended (H. Rept. 108–728);

H.R. 4302, to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect (H. Rept. 108–729);

H.R. 4453, to improve access to physicians in medically underserved areas, amended (H. Rept. 108–730);

H.R. 4306, to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment, amended (H. Rept. 108–731);

S. 1194, to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems, amended (H. Rept. 108–732);

S. 129, to provide for reform relating to Federal employment, amended (H. Rept. 108–733);

Conference report on H.R. 4850, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005 (H. Rept. 108–734). **Pages H8144–57 (continued next issue)**

Speaker: Read a letter from the Speaker wherein he appointed Representative Boozman to act as Speaker pro tempore for today. **Page H8041**

Recess: The House recessed at 9:02 a.m. and reconvened at 10 a.m. **Page H8041**

District of Columbia Appropriations Act, 2005—Motion to go to conference: The House disagreed to the Senate amendment to H.R. 4850, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and agreed to a conference. **Page H8043**

Appointed as conferees: Representative Frelinghuysen, Istook, Cunningham, Doolittle, Weldon (FL), Culberson, Young (FL), Fattah, Pastor, Cramer, and Obey. **Page H8043**

Bankruptcy Judgeship Act of 2003: The House passed S. 878, to authorize an additional permanent judgeship in the District of Idaho, by voice vote. **Pages H8048–63**

Rejected the Berman motion to recommit the bill to the Committee on the Judiciary with instructions to report the bill back to the House forthwith with an amendment, by a recorded vote of 190 ayes to 216 noes, Roll No. 493. **Pages H8061–63**

Agreed to:

Sensenbrenner amendment (No. 1 printed in H. Rept. 108–723) that "staggers" implementation of the 58 new Federal circuit and district court judgeships created by the bill over seven fiscal years; and **Pages H8052–53**

Simpson amendment (No. 2 printed in H. Rept. 108–723) that splits the current 9th Circuit Court of Appeals (by a recorded vote of 205 ayes to 194 noes, Roll No. 492). **Pages H8053–61**

Agreed to amend the title so as to read: to create additional Federal court judgeships. **Page H8061**

H. Res. 814, the rule providing for consideration of the bill was agreed to by a recorded vote of 206 ayes to 173 noes, Roll No. 491, after agreeing to order the previous question by a yea-and-nay vote of 198 yeas to 171 nays, Roll No. 490. **Pages H8043–48**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Recognizing the spirit of Jacob Mock Doub: H. Con. Res. 480, recognizing the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit and expressing the sense of Congress that ''National Take a Kid Mountain Biking Day'' should be established in Jacob Mock Doub's honor; **Pages H8063–64**

Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2003: H.R. 918, amended, to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services; **Pages H8064–69**

Agreed to amend the title so as to read: to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes. **Page H8069**

National All Schedules Prescription Electronic Reporting Act of 2003: H.R. 3015, amended, to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance; **Pages H8069–73**

Agreed to amend the title so as to read: to provide for the establishment of a controlled substance monitoring program in each State. **Page H8073**

Pancreatic Islet Cell Transplantation Act of 2004: H.R. 3858, to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation; **Pages H8073–74**

Asthmatic Schoolchildren's Treatment and Health Management Act of 2004: H.R. 2023, amended, to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis; **Pages H8074–79**

Mammography Quality Standards Reauthorization Act of 2004: H.R. 4555, amended, to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards; **Pages H8079–80**

Safeguard Against Privacy Invasions (SPY) Act: H.R. 2929, amended, to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, by a 2/3 yea-and-nay vote of 399 yeas to 1 nay, Roll No. 495; **Pages H8080–89, H8130–31**

Recognizing community organization of public access defibrillation programs: H. Con. Res. 250, recognizing community organization of public access defibrillation programs; **Pages H8089–91**

Sense of Congress regarding the role of private health insurance companies in promoting healthy lifestyles: H. Con. Res. 34, amended, expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles; **Pages H8091–94**

Orderly and Timely Interstate Placement of Foster Children Act of 2004: H.R. 4504, amended, to improve protections for children and to hold States accountable for the orderly and timely placement of children across State lines; **Pages H8094–H8100**

Agreed to amend the title so as to read: to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines. **Page H8100**

Sense of Congress regarding the establishment of a Columbia Memorial Space Science Learning Center: H.J. Res. 57, amended, expressing the sense of the Congress in recognition of the contributions of the seven *Columbia* astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center; **Pages H8100–04**

Military Personnel Financial Services Protection Act: H.R. 5011, amended, to prevent the sale of abusive insurance and investment products to military personnel, by a 2/3 yea-and-nay vote of 396 yeas to 2 nays, Roll No. 496; **Pages H8104–10, H8131**

Confirming the authority of the Secretary of Agriculture and the Commodity Credit Corporation: H.R. 4620, amended, to confirm the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans; **Pages H8110–11**

Agreed to amend the title so as to read: to confirm the authority of the Secretary of Agriculture to collect approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans. **Page H8111**

Providing for the development of a national plan for the control and management of Sudden

Oak Death: H.R. 4569, to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum; **Pages H8111–13**

Pennsylvania National Forest Improvement Act of 2003: H.R. 3514, amended, to authorize the Secretary of Agriculture to convey certain lands and improvements associated with the National Forest System in the State of Pennsylvania; **Pages H8113–15**

Honoring the service of Native American Indians in the U.S. Armed Forces: H. Con. Res. 306, amended, honoring the service of Native American Indians in the United States Armed Forces; **Pages H8115–17**

Agreed to amend the title so as to read: honoring the service of American Indians in the United States Armed Forces. **Page H8117**

Amending the Agricultural Adjustment Act: H.R. 2984, to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears; **Pages H8131–33**

Expressing the support of the House for the efforts of organizations to provide emergency food assistance to people in the U.S.: H. Res. 261, expressing the support of the House of Representatives for the efforts of organizations such as Second Harvest to provide emergency food assistance to hungry people in the United States, and encouraging all Americans to provide volunteer services and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters; **Pages H8133–36**

Recognizing the establishment of Hunters for the Hungry programs: H. Res. 481, recognizing the establishment of Hunters for the Hungry programs across the United States and the contributions of those programs to efforts to decrease hunger and help feed those in need; **Pages H8136–37**

Amending the Department of Agriculture Organic Act of 1944: H.R. 5042, to amend the Department of Agriculture Organic Act of 1944 to ensure that the dependents of employees of the Forest Service stationed in Puerto Rico receive a high-quality elementary and secondary education; **Pages H8138–39**

Authorizing the Secretary of Agriculture to sell or exchange certain land in the Ozark-St. Francis and Ouachita National Forests: S.33, to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites; and **Pages H8139–40**

Providing for the use by the State of North Carolina of the Oxford Research Station in Granville County, North Carolina: H.R. 2119, amended, to provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina. **Pages H8140–41**

Agreed to amend the title so as to read: to provide for the conveyance of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina, to the State of North Carolina. **Page H9141**

Suspension Failed: The House failed to agree to suspend the rules and pass the following bill:

Requiring that all young persons in the U.S. perform a period of military service or civilian service: H.R. 163, to provide for the common defense by requiring that all young persons in the United States, including women, perform a period of military service or a period of civilian service in furtherance of the national defense and homeland security, by a 2/3 yea-and-nay vote of 2 yeas to 402 nays, Roll No. 494. **Pages H8117–30**

Discharge Petitions: Representative Edwards moved to discharge the Committee on Rules from the consideration of H. Res. 788, providing for the consideration of H.R. 4423, making appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 2004 (Discharge Petition No. 14).

Representative Bishop of New York moved to discharge the Committee on Rules from the consideration of H. Res. 790, providing for consideration of H.R. 4473, making appropriations for the Department of Education for the fiscal year ending September 30, 2005 (Discharge Petition No. 15).

Senate Message: Message received from the Senate today appears on page H8048.

Quorum Calls—Votes: Four yea-and-nay votes and three recorded votes developed during the proceedings of today. There were no quorum calls.

Pages H8046–47, H8047, H8061, H8062–63, H8129–30, H8130–31, H8131

Amendments: Amendments ordered printed pursuant to the rule will appear in the next issue of the Record.

Adjournment: The House met at 9 a.m. and at 9:05 p.m. stands in recess subject to the call of the Chair.

Committee Meetings

FLU VACCINE

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on Influenza Vaccine. Testimony was heard from the following officials of the Department of Health and Human Services: Julie L. Gerberding, M.D., Director, Centers for Disease Control and Prevention; William Egan, M.D., Acting Director, Office of Vaccines Research and Review, Center for Biologics Evaluation and Research, FDA; and Anthony S. Fauci, M.D., Director, National Institute of Allergy and Infectious Diseases, NIH; and public witnesses.

U.N. OIL FOR FOOD PROGRAM

Committee on Government Reform: Subcommittee on National Security, Emerging Threats and International Relations held a hearing entitled ''The U.N. Oil for Food Program: Cash Cow Meets Paper Tiger.'' Testimony was heard from Ambassador Patrick F. Kennedy, U.S. Representative to the United Nations, U.N. Management and Reform, Department of State; and public witnesses.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Europe approved for full Committee action the following measures: H. Res. 726, amended, Congratulating the people of Serbia and government of Serbia for conducting a democratic, free and fair presidential election and for reaffirming Serbia's commitment to peace, democracy and the rule of law; H.R. 733, Calling on the Government of Libya to review the legal actions taken against several Bulgarian medical workers; H. Res. 341, amended, Urging the President of the European Union to add Hezbollah to the European Union's wide-ranging list of terrorist organizations; and H. Res. 483, amended, Pledging continued United States support for the sovereignty, independence, territorial integrity, and democratic and economic reforms of the Republic of Georgia.

OVERSIGHT—PEER-TO-PEER PIRACY ON UNIVERSITY CAMPUSES: AN UPDATE

Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on Peer-to-Peer Piracy (P2P) on University Campuses: An Update. Testimony was heard from public witnesses.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FY 2005

Committee on Rules: Heard testimony from Representatives Boyd, Stenholm, Pomeroy and Doyle, but action was deferred on H.R. 5212, Emergency Supplemental Appropriations for FY 2005.

THE JUSTICE FOR ALL ACT OF 2004

Committee on Rules: Heard testimony from Representatives Chabot and Delahunt, but action was deferred on H.R. 5107, the Justice for All Act of 2004.

9/11 RECOMMENDATIONS IMPLEMENTATION ACT

Committee on Rules: Heard testimony from Chairmen Hoekstra, Hunter, Hyde, Cox and Goodlatte and Representatives Gingrey, Bartlett, Capito, Shays, Platts, Smith of Texas, Flake, Rogers of Michigan, Tancredo, Mica, Porter, Foley, Bonilla, Kirk, Weldon of Florida, Harman, Cooper, Maloney, Jackson-Lee of Texas, Markey, Menendez, Ackerman, Turner of Texas, Obey and Sabo, but action was deferred on H.R. 10, 9/11 Recommendations Implementation Act.

Joint Meetings

APPROPRIATIONS: DISTRICT OF COLUMBIA

Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 4850, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005.

AMERICAN JOBS CREATION ACT

Conferees met to resolve the differences between the Senate and House passed versions of H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, but did not complete action thereon, and will continue on Wednesday, October 6, 2004.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1001)*

H.R. 5183, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century. Signed on September 30, 2004. (Public Law 108–310)

COMMITTEE MEETINGS FOR WEDNESDAY, OCTOBER 6, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings to examine the nominations of Francis J. Harvey, of California, to be Secretary of the Army, Richard Greco, Jr., of New York, to be an Assistant Secretary of the Navy, and General Gregory S. Martin, USAF, for reappointment to the grade of general and to be Commander, United States Pacific Command, 10 a.m., SR–222.

Full Committee, to hold hearings to examine the report of the Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Programs, 2:30 p.m., SH–216.

Committee on Commerce, Science, and Transportation: Subcommittee on Competition, Foreign Commerce, and Infrastructure, to hold hearings to examine issues relating to natural gas, 2:30 p.m., SR–253.

Committee on Foreign Relations: to hold hearings to examine the impact of current visa policy on international students and researchers, 9:30 a.m., SD–419.

Subcommittee on East Asian and Pacific Affairs, to hold hearings to examine neglected diseases in East Asia regarding public health programs, 2:30 p.m., SD–419.

Committee on Health, Education, Labor, and Pensions: with the Committee on the Judiciary, to hold joint hearings to examine responding to an ever-changing threat relating to BioShield II, 10 a.m., SH–216.

Committee on Indian Affairs: business meeting to consider pending calendar business, 10 a.m., SR–485.

Committee on the Judiciary: with the Committee on Health, Education, Labor, and Pensions, to hold joint hearings to examine responding to an ever-changing threat relating to BioShield II, 10 a.m., SH–216.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 10 a.m., SH–219.

House

Committee on the Budget, hearing on Federal Revenue Options, 10 a.m., 210 Cannon.

Committee on Energy and Commerce, Subcommittee on Commerce, Trade and Consumer Protection, hearing entitled ''Child Product Safety: Do Current Standards Provide Enough Protection?'' 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled ''The OFHEO Report: Allegations of Accounting and Management Failure at Fannie Mae,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, hearing entitled ''Current Challenges in Combating the West Nile Virus,'' 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on the Annual Report on International Religious Freedom 2004 and Designations of Countries of Particular Concern, 10:30 a.m., 2172 Rayburn.

Subcommittee on Western Hemisphere, hearing on U.S. Trade Disputes in Peru and Ecuador, 2:30 p.m., 2200 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, oversight hearing on the Presidential Succession Act, 9:30 a.m., 2141 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, oversight hearing on Maritime Domain Awareness, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Oversight and Investigations, hearing on the status of the Department of Veterans Affairs smart card initiative(s), 9:30 a.m., 334 Cannon.

Permanent Select Committee on Intelligence, executive, Briefing on Threat Update, 1 p.m., H–405 Capitol.

Joint Meetings

Conference: meeting of conferees on H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, 10 a.m., 11 LHOB.

Next Meeting of the **SENATE**

9:30 a.m., Wednesday, October 6

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 30 minutes), Senate will continue consideration of S. 2845, National Intelligence Reform Act, and vote on or in relation to certain amendments beginning at 11:30 a.m. Also, following third reading and passage of S. 2845, Senate will begin consideration of S. Res. 445, Intelligence Committee Reform Resolution.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Wednesday, October 6

House Chamber

Program for Wednesday: Consideration of Suspensions:

(1) H.R. 4302, District of Columbia Civil Commitment Modernization Act of 2004;

(2) H. Res. 815, Congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, conducted by the National Geographic Society;

(3) H.R. 4302, Leonard C. Burch Post Office Building Designation Act;

(4) H. Con. Res. 464, Honoring the 10 communities selected to receive the 2004 All-America City Award;

(5) S. 129, Federal Workforce Flexibility Act of 2003;

(6) H.R. 4807, Adam G. Kinser Post Office Building Designation Act;

(7) S. 2415, Robert J. Opinsky Post Office Building Designation Act;

(8) H.R. 4847, Lieutenant General James V. Edmundson Post Office Building Designation Act;

(9) H.R. 4968, Bill Monroe Post Office Building Designation Act;

(10) H.R. 5053, Lieutenant John F. Finn Post Office Building Designation Act;

(11) H.R. 4829, Irma Rangel Post Office Building Designation Act;

(12) H.R. 5131, Special Olympics Sport and Empowerment Act of 2004;

(13) H.R. 5185, to temporarily extend the programs under the Higher Education Act of 1965;

(14) H.R. 5186, to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans;

(15) H. Res. 805, supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations;

(16) H. Con. Res. 131, expressing the sense of the Congress that student travel is a vital component of the educational process;

(17) H. Res. 809, supporting the goals and ideals of "Lights On Afterschool";

(18) H.R. 4306, to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment;

(19) H.R. 4453, Access to Rural Physicians Improvement Act of 2004;

(20) S. 1194, Mentally Ill Offender Treatment and Crime Reduction Act of 2003;

(21) S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the U.S. Supreme Court;

(22) H. Res. 389, honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary;

(23) H.R. 4661, Internet Spyware (I–SPY) Prevention Act of 2004; and

(24) H.R. 4794, to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations.

Consideration of H.R. 5107—Justice for All Act of 2004 (Subject to a Rule).

(House proceedings for today will be continued in the next issue of the Record.)

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