



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, TUESDAY, APRIL 26, 2005

No. 52

## House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PRICE of Georgia).

### DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,

April 26, 2005.

I hereby appoint the Honorable TOM PRICE 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 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

### LEMELSON FOUNDATION AND INTRODUCTION OF WATER FOR THE POOR ACT OF 2005

Mr. BLUMENAUER. Mr. Speaker, last Friday evening I had the opportunity and the honor of attending a ceremony where the Lemelson Foundation awarded the annual Lemelson MIT Prize for Innovation, held for the first time in Portland, Oregon.

The foundation was established by one of the most prolific American inventors, the late Jerome Lemelson, and his family.

Although located in Portland, the foundation is truly international in

scope. Jerome Lemelson endowed the foundation to promote innovation and to ensure that its application benefited humankind.

In the United States, their unique foundation supports several grantees whose programs celebrate extraordinary inventors as role models, illustrate the value of invention in the evolution of a great society, and nurture young adults to solve pressing social problems by pursuing careers in invention.

This year the foundation awarded a \$500,000 Lemelson-MIT Prize, the largest cash award for innovation, to Elwood "Woody" Norris for revolutionizing acoustics.

Internationally, the Lemelson Foundation nurtures individual creativity to transform fundamental challenges into opportunities for sustainable progress. Its Invention for Sustainable Development program recognizes inventors and innovators in developing countries, fostering the institutions that support them, and applies their inventions to meet basic human needs and advance sustainable development.

Last week, foundation board member Eric Lemelson discussed foundation initiatives dealing with low-tech, high-impact innovation dealing with drip irrigation, an example of a cost-effective application of new technology to save scarce water resources, save money in a developing country while improving agricultural yields.

This is the type of commonsense approach of applied technology to sustainability that can truly transform people's lives.

I would hope that we in government can undertake the same spirit of innovation in our approach to USAID.

I was pleased to see Senator FRIST return from his trip to Africa convinced that the United States needs to do more with water innovation and has introduced legislation in the Senate. I applaud his bill, the Safe Water Cur-

rency for Peace Act, S. 492. By the same token, I am offering complementary legislation in the House, the Water for the Poor Act of 2005.

This bill will make access to clean water and sanitation a major U.S. foreign policy objective and requires the USAID to develop a strategy to carry out this objective. It supports innovative financing mechanisms that can create additional resources for water and sanitation, while ensuring access and affordability to the very poor.

This legislation is critically needed. The lack of clean water and sanitation is perhaps the world's greatest single health need. More than 1 billion people worldwide lack access to safe drinking water. More than twice as many, 2.3 billion people, one in every three people on the planet, lack access to adequate sanitation, and the consequences are devastating.

Water-related diseases are a human tragedy, killing up to 5 million people every year. At any given time, half the population in the developing world is sick from water-related disease. Tragically, one child dies every 15 seconds for lack of water and sanitation.

At a time when people in every corner of the globe understand the importance of water and the problems of its misuse, I was pleased that the United States and the Bush administration joined 185 other nations committed to cutting in half the percentage of people in the world without access to water and sanitation. I was there in Johannesburg in 2002, watching that consensus come together. I am hopeful that we will be able to follow through.

As Eric Lemelson pointed out in his remarks, the Lemelson Foundation does not have to be responsive to shareholders or the voters so they can afford to be cutting-edge, innovative, and creative. I would like to think that they are pointing the way to more liveable communities around the globe where all our families can be safe,

This symbol represents the time of day during the House proceedings, e.g.,  1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H2477

healthy, and more economically secure; and they are pointing the way for the Federal Government to follow their lead.

My congratulations to the foundation; and I look forward to working on their innovations, integrating them with U.S. Government policy around the globe.

#### WHY THE F/A-22 RAPTOR

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, recently I had the opportunity to visit Langley Air Force Base in Virginia and spend time with the commander of the Air Combat Command, Lieutenant General William Fraser, and many dedicated, indeed dedicated, members of the United States Air Force. As part of the Air Force Caucus trip, we had almost 50 people participating in the trip.

Much of this trip focused on the F/A-22 Raptor and its importance to the future of the United States Air Force. After visiting with General Fraser and seeing the Raptor up close, I am more convinced and I think the participants who went on this trip are also convinced that the F/A-22 will become an integral part of future military successes.

Mr. Speaker, during my visit I was briefed not only about the warfighting capabilities of this plane but about the maintenance program as well. The Air Force uses cutting-edge technology to maintain this plane; and this, of course, leads to more efficient maintenance. It is the first jet to use an entirely paperless maintenance program, allowing new parts to be ordered or changes to be made significantly faster.

The engine also utilizes new technologies. Its design allows it to be worked on while still on the plane, that is, the engine. In the past, engines often needed to be removed in order to be maintained. This is not the case for the F/A-22. These new technologies mean less time in the shop and, of course, more time in the air.

Also, the maintenance training program has been improved. No longer are there these big, bulky maintenance manuals. The training is digital in real-time, with real-world conditions. It leads to more effective and efficient training. Maintainers spend less time in training and more time actually working on the plane. This, of course, leads to faster maintenance and thus the F/A-22s are not grounded for longer than is necessary.

In the past, and particularly in the post-September 11 environment, homeland security has been our top priority here in Congress and our Nation. The F/A-22 plays a large role in protecting the homeland. According to the Air Force, 238 legacy fighters would be required and needed to protect this

homeland while only 150 F/A-22s would be needed.

The Bush administration unfortunately has proposed cutting \$10 billion from the F/A-22 program over the next 5 years, leaving enough to buy 183 of the 381 planes the Air Force says it needs. Simply put, in my judgment, this number is just not sufficient.

The Air Force will not be able to guarantee air superiority without a sufficient quantity of F/A-22s. The U.S. has not lost a soldier due to an air attack since 1952. The Air Force has made air superiority look so easy that we have begun to take it for granted, but maintaining this air dominance is not easy.

For now, the United States Air Force is the best trained, the best equipped in the world; but Russia, China, India have made huge strides in achieving parity, and, in some cases, have even surpassed U.S. capabilities.

Our current, but badly aging, fighters no longer enjoy technological or aerodynamic superiority when compared to the modern aircraft of potential adversaries. There have been some recent exercises pitting the F-15s, which the F/A-22 Raptor will replace, against one of Russia's primary export fighters, resulting in kill ratios favoring the SU-30.

In contrast, on a recent training mission where a single F/A-22 went against five F-15s, the Raptor killed all the F-15s within 3 minutes. Additionally, due to a lack of stealth assets, the ability of our aircraft to operate in environments where hostile threats exist is inadequate. The only way to address these shortcomings, which will only worsen, I tell my colleagues, is with sufficient numbers of the F/A-22 Raptor. We cannot fight tomorrow's war with yesterday's equipment.

That is why America needs the Raptor. With a variety of internal weapons, the Raptor can destroy or negate the most capable future threats: advance fighters; surface-to-air missile systems; and high-value, mobile ground targets.

The F/A-22's combination of speed, stealth, and integrated avionics bring unmatched capabilities to cope with the 21st-century threat environment. Air dominance gives the joint force freedom from attack, freedom to maneuver and, of course, freedom to succeed. No substitute exists for the F/A-22's unique capabilities.

With the international proliferation of sophisticated aircraft and air defense systems, U.S. fighters are losing their ability to leverage access for U.S. forces in hostile regions. The F/A-22 changes this equation with its revolutionary design and potent array of systems.

Mr. Speaker, that is why we need to fully fund the F/A-22 Raptor over the next 5 years.

#### ETHICS CHANGES

The SPEAKER pro tempore. Pursuant to the order of the House of Janu-

ary 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, since the beginning of the year, the House has been conducting its business without an organized Committee on Standards of Official Conduct in place to investigate possible unethical behavior by Members of Congress. Republicans have tried to blame Democrats on the Committee on Standards of Official Conduct for this standoff, but the fact is they have nobody to blame but themselves.

At the beginning of this year, the Republican leadership went ahead and changed the way the Committee on Standards of Official Conduct does its business. In the past, whenever ethics changes were being considered, they were addressed in a bipartisan fashion, with both Democrats and Republicans at the table. That is the only way ethics reform can honestly be addressed, but the Republican leadership ignored that protocol and strong-armed enough of its Members into passing new and weakened ethics rules.

The American people need to understand that these new rules will allow either party, Democrat or Republican, to protect its own Members. Under the new Republican rules, if the majority of the committee cannot determine whether or not an investigation should proceed, after 45 days of receiving a complaint, the complaint would simply be dropped. No action would take place.

Since the Committee on Standards of Official Conduct is made up of five Members from each party, either side could prevent an ethics investigation from moving forward against one of its Members. Now, this is not the way the Committee on Standards of Official Conduct is supposed to work. Under the old bipartisan rules, if the committee could not come to an agreement on how to proceed after 45 days, an investigative subcommittee was created.

The weakening of the ethics rules by House Republicans did not fool editorial writers, both liberal and conservative, who follow House proceedings closely; and I just wanted to give some examples.

The conservative Chicago Tribune recently said, How do House Republicans respond to ethical lapses? By trying to bury them.

□ 1245

The Hartford Courant concluded, "The committee has been careening toward ethical oblivion in recent years, as the majority Republicans have relaxed the standards, eased up on investigations and created trapdoors through which alleged transgressors could escape."

The Republican leadership did not stop at just weakening the ethics rules, the Republican leadership also purged three Republican Members of the Committee on Standards of Official Conduct, three Members who were not in the pockets of the leadership.

After losing his chairmanship of the Committee on Standards of Official Conduct, the gentleman from Colorado (Mr. HEFLEY) told *The Washington Post* that there is “a bad perception out there that there was a purge in the committee and that people were put in that would protect our side of the aisle better than I did. Nobody should be there to protect anybody. They should be there to protect the integrity of the institution.”

Mr. Speaker, congressional Republicans should listen to their former ethics chairman, the gentleman from Colorado (Mr. HEFLEY). The integrity of the House of Representatives is much more important than any one Member.

These actions by the Republican majority really make one wonder why the changes are necessary now. It seems clear to me that the Republican leadership went to all of this trouble to protect one of its leaders. Last month the *Wall Street Journal*, which has a conservative editorial page, charged there is an “odor,” an “unsavory whiff” at the very highest reaches of this House. Every single day, it seems, more revelations come out about questionable actions by a member of the Republican leadership. These daily revelations should concern every Member of the institution.

My Democrat colleagues and I realize the integrity of the House is at stake. We cannot allow weakened ethics rules to move forward to protect anyone, and it is critical that the Committee on Standards of Official Conduct be allowed to do its job and that is impossible under the new Republican rules.

Mr. Speaker, as the majority leader, the gentleman from Texas (Mr. DELAY) said back in November 1995, “The time has come that the American people know exactly what their representatives are doing here in Washington, are they feeding at the public trough, taking lobbyist-paid vacations, getting wine and dined by special interest groups, or are they working hard to represent their constituents? The American people have a right to know.” That was the majority leader, the gentleman from Texas (Mr. DELAY), in his own words 10 years ago.

Let me say, the majority leader was right, the American people deserve answers and they will not get those answers under the weakened Republican ethics rules. That is why Democrats are fighting so hard to have the old rules restored. If the majority leader believes his comments from 10 years ago, I would think he would join us in our fight.

#### DISCRIMINATION AT THE UNITED NATIONS

The SPEAKER pro tempore (Mr. PRICE of Georgia). Pursuant to the order of the House of January 4, 2005, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized during morning hour debates for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, we are currently engaged in a detailed and comprehensive review of the United Nations, the system it has, with the goal of providing reforms that are going to ensure transparency, accountability, and efficiency in all U.N. operations. A critical component of this effort must include measures to ensure that Israel is afforded equal treatment and representation while addressing the anti-Israeli and anti-Semitic component that is pervasive in many U.N. bodies and its affiliated agencies.

The 1975 United Nations resolution equating Zionism, the national liberation movement of the Jewish people, to racism stands out as an example of this bias and outright bigotry. While this was the most notorious illustration of its anti-Jewish sentiment at the U.N. there are many, many others.

During the 1991 session of the United Nations Commission on Human Rights, for example, the Syrian representative to the U.N. repeated the Damascus blood libel that Jews killed Christian children to use their blood to make Matzo. In 1997, the Palestinian representative charged that the Israeli Government had injected 300 Palestinian children with the HIV virus.

The goals of the 2001 U.N. World Conference Against Racism were undermined by hateful anti-Jewish rhetoric and anti-Israeli political agendas, prompting both Israel and the United States to withdraw their delegations from the conference.

In the United Nations General Assembly, we must look no further than the over 20 resolutions introduced by the Palestinian delegation each and every year against Israel, challenging Israel's policies and her very right to exist. During the 59th session of the U.N. General Assembly for 2004, close to 30 percent of all resolutions considered by this body were measures condemning Israel in some fashion.

At the U.N. Commission on Human Rights, there is an entire agenda item, item 8, that is dedicated to attacking and criticizing Israel. Countries that are gross human rights violators, such as Libya, Indonesia, and Egypt, have introduced resolutions under this category that criticize Israel for alleged human rights abuses in the West Bank and the Gaza Strip.

An additional resolution was introduced at this year's Human Rights Commission regarding what was termed as the Palestinian right of self-determination for the Palestinians, as well as another one on Israel and Lebanon. Yet there was not a single measure on the Syrian regime's gross violations of the rights of the Syrian and the Lebanese people or on the deplorable acts committed by the Iranian regime against its people.

Israel is a democracy and yet its sovereignty and its right to defend itself are frequently called into question in the United Nations system. The ruling last summer by the International Court of Justice on Israel's security

fence is a case in point. Not only was Israel's inherent right to self-defense branded illegitimate by the United Nations, but terrorists and suicide bombers remain uncensored.

In addition, the failure of the U.N. system in fulfilling its mandate is illustrated by the limitations placed on Israel's membership. Israel is denied the ability to serve or run for leadership positions in multiple U.N. bodies and its affiliated agencies. While Israel was accepted as a temporary member of the Western European and Others Group, it is not allowed to present candidacies for open seats in any U.N. body and is not able to compete for major U.N. bodies.

Israel is excluded from consultations at the U.N. offices in Geneva, Nairobi, Rome and Vienna. By contrast, there is a separate “U.N. Division For Palestinian Rights,” a “Committee on the Exercise of the Inalienable Rights of the Palestinian People, a U.N. Special Coordinator for the Middle East Peace Process and Personal Representative to the Palestinian Liberation Organization and the Palestinian Authority,” and “NGO Network on the Question of Palestine.”

There is also an entire agency, the United Nations Relief and Works Agency, specifically designated for Palestinian refugees at a cost of over \$400 million in the year 2004, yet all other refugees and internally displaced persons throughout the world are covered by the Office of the U.N. High Commissioner For Refugees.

Mr. Speaker, I include the remainder of my statement for the RECORD, and close by saying any effort at reforming the United Nations must include an end to the anti-Israel and anti-Semitic sentiment that has infected the U.N. organization for far too long.

I held a hearing last week to evaluate United Nations programs related to the Middle East, with special emphasis on the anti-Israel discrimination and anti-Semitic attacks.

It became abundantly clear that any U.N. reform efforts must address this imbalance and bias in favor of rogue states and individual groups.

In turn, the discrimination against Israel in the United Nations must be brought to an immediate end.

I have undertaken various initiatives to correct this injustice and ensure full membership and participation for Israel in all U.N. forums.

Most recently, I introduced H. Res. 54: calling on the United Nations to hold countries accountable for anti-Semitic statements and anti-Israeli incitement and calling for U.N. entities, such as UNESCO, to develop and implement Holocaust education programs throughout the world as part of an effort to combat such religious intolerance and anti-Israeli bias.

I ask my colleagues to render their support to these efforts and to co-sponsor this resolution.

The goals enshrined in the U.N. Charter—the promotion of international peace and security, and the respect for fundamental human rights—have never been more significant for the Jewish people and the State of Israel, which was founded on the ashes of the Holocaust.

BIPARTISAN LEGISLATION IN  
109TH CONGRESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Mr. Speaker, Republicans and Democrats alike in this House can take a great deal of pride in the work product that has come forward in the 109th Congress. We know that for 8 years there has been an attempt to pass bankruptcy reform legislation, to finally bring some common sense to our bankruptcy law. With a strong bipartisan vote, Democrats joining with Republicans, we finally have been able to bring about bankruptcy reform.

We know that frivolous lawsuits have been a tremendous problem, and class action reform is again another very important bipartisan victory that we have been able to bring about.

Securing our borders. Our national security is our number one priority in this country. It has to be constitutional, but securing our borders is very important. With a strong, bipartisan vote, we have been able to pass the Real ID legislation which has now been attached to the very supplemental appropriations bill which also enjoyed very strong bipartisan support.

The highway bill enjoyed strong bipartisan support with Democrats and Republicans coming together to work on this important issue.

We also know that trying to save small businesses and family farms has been very important, and that is why Democrats and Republicans came together to permanently repeal the death tax, one of the most onerous taxes of all, and we also know that dealing with the prospect of a horrible terrorist attack is something that we had not contemplated up until September 11, 2001. Now we have seriously considered the prospect of that by passing very important Continuity in Government legislation which enjoyed the support of 122 Democrats along with Republicans.

Mr. Speaker, just last week we saw 41 Democrats joined with Republicans to pass the very important energy legislation geared toward reducing the cost of gasoline which is one of the great challenges our constituents face.

We have enjoyed those strong bipartisan victories: bankruptcy, highway, continuity in government, border security, energy, and repeal of the death tax. These are very important bipartisan victories, but it is also important to note that we have had a very important bipartisan win just today, and it is because of the policies of President Bush and the United States Congress that we have been able to see the Syrians, after 3 long decades, finally extricate themselves from Lebanon.

I had the privilege of joining with a bipartisan delegation of my colleagues, the gentleman from Florida (Mr. HASTINGS), the gentleman from Wash-

ington (Mr. HASTINGS), the gentleman from Georgia (Mr. GINGREY), the gentleman from Florida (Mr. CRENSHAW) join with us in going into Beirut, Lebanon. We had a chance to meet with young students who were great activists at Martyr's Square at the grave site of Rafik Hariri, the former Prime Minister who was tragically assassinated. These students said because of what the United States of America and the Coalition forces did in Iraq, laying the groundwork for 8.5 million people to vote on January 30, 2005, they were willing to stand up and free their country, and they were willing to die to ensure that the people of Lebanon would be free.

Mr. Speaker, I have to say while we have enjoyed a wide range of bipartisan victories in the 109th Congress under the very able leadership of the gentleman from Illinois (Mr. HASTERT), it is also very important to note that under his leadership and the leadership of President Bush, we have been able to see democracy spread throughout the Middle East. It is exactly what President Bush said, and thank God we vigorously pursued that policy.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 58 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

PRAYER

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

Lord God, Well-spring of all creation and Provident Guide of our Nation's history, You bring us together for this session of the 109th Congress of the United States.

From diversity, You fashion one Nation. Out of the human search for truth and faulty efforts to lovingly accept one another in fellowship, You inspire consensus and settle a just yet temporary compromise. Grant to all patience and civility in every endeavor.

For You leave this work in such human hands, though You are the designer of lasting results.

Lord, without a transcendent framework, the movable pieces of this mosaic of government will not fall into place.

Alone and filled with fears and absolutes, all human effort to seek the common good will only lead to some artificial conformity or relative common denominator.

So again, our Nation turns to You in prayer, as we will do, now and 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 gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY 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.

MESSAGE FROM THE SENATE

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

S. 893. An Act to make technical corrections in the Anabolic Steroid Control Act of 2004.

HEALTH INSURANCE PATIENT-  
OWNERSHIP PLAN

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

Mr. Speaker, I am a third-generation physician. Both my father and grandfather were doctors, and I practiced medicine for over 20 years before coming to Congress. I can tell my colleagues that without a doubt, the doctor-patient relationship is far from what it used to be, or ought to be.

Today, our health care system is big business. The doctor-patient relationship is often obstructed by insurance companies, the government, and employers. The result is a system that prevents people from having control and ownership of critical health care decisions in their own lives.

Today, employers or the government most often determine what health insurance coverage a person receives, they dictate what the copays and the deductibles are, and they hold the contract with the insurance company.

I believe that the person most affected by health care decisions should be the one who has the most control over those decisions, and that is the patient.

Mr. Speaker, it is time we started thinking about health care in a new way. We should put health care choices in the patient's hands, not the employer's, not the insurance company's, and certainly not the government's. H. Res. 215, the Health Insurance Patient-Ownership Plan, is a good way to begin, and I ask my colleagues for their support on this new, exciting, and positive initiative.

### OPPOSING THE PRIVATIZATION OF SOCIAL SECURITY

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to reiterate my emphatic opposition to the privatization of Social Security. This program would not only hurt millions of elderly Americans but, ultimately, the whole country. For women and working families especially, Social Security is a lifeline, and they need to know that they can rely on a guaranteed benefit.

Social Security was never intended to be a roll-the-dice stock market gambit. Social Security was never meant to be an elaborate investment scheme geared to maximizing returns. Social Security was designed as a simple, straightforward social insurance program that ensures all of us to spend our golden years in a basic level of dignity, independence, and security.

Mr. Speaker, privatization is also not good for young workers. A 30-year-old worker making \$40,000 a year will lose 27 percent of their benefits under this plan. That is almost \$6,000 a year.

I urge all of my colleagues, let us work together and solve a manageable problem.

### PARENTS DESERVE THE RIGHT TO KNOW

(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, a woman from my district came to Washington last month to tell Congress about how her daughter was taken to New Jersey for an abortion without her knowledge. This mom knew about her 14-year-old daughter's pregnancy. Her daughter had chosen to keep the baby and was attending prenatal classes.

But the boyfriend's family, according to her testimony, "planned, paid for, coerced, harassed, and threatened her into having an abortion. They left her alone during the abortion and went to eat lunch."

About 80 percent of the public favors parental notification laws. Over 30 States have enacted such laws. As in the case of my constituent, these laws are often evaded by interstate transportation of minors, and it is often openly encouraged in advertising by abortion providers.

This week, the House will consider legislation that merely says that in States that protect a parent's right to know, taking a young girl across State lines will not keep the parent in the dark. The bill would make it a Federal offense to transport a minor across State lines to circumvent that State's abortion parental notification laws. In addition, the bill requires that in a State without parental notification,

abortion providers are required to notify a parent.

I urge support of the bill.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FORBES). 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 after 6:30 p.m. today.

### REAUTHORIZING THE STEEL AND ALUMINUM ENERGY CONSERVATION AND TECHNOLOGY ACT OF 1988

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1158) to reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, as amended.

The Clerk read as follows:

H.R. 1158

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

#### SECTION 1. AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9 of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5108) is amended to read as follows:

#### "SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this Act \$12,000,000 for each of the fiscal years 2006 through 2010."

(b) STEEL PROJECT PRIORITIES.—Section 4(c)(1) of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5103(c)(1)) is amended—

(1) in subparagraph (H), by striking "coatings for sheet steels" and inserting "sheet and bar steels"; and

(2) by adding at the end the following new subparagraph:

"(K) The development of technologies which reduce greenhouse gas emissions."

(c) CONFORMING AMENDMENTS.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is further amended—

(1) by striking section 7 (15 U.S.C. 5106); and

(2) in section 8 (15 U.S.C. 5107), by inserting "beginning with fiscal year 2006," after "close of each fiscal year".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

#### GENERAL LEAVE

Mrs. BIGGERT. 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. 1158, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1158, the Steel and Aluminum Energy Conservation and Technology Competitiveness Act. I would like to commend my colleague, the gentlewoman from Pennsylvania (Ms. HART), for reintroducing this important legislation which she originally introduced and which passed the House in the 108th Congress.

There are many reasons why we should pass this legislation today.

First of all, the metals industry is highly energy-intensive. Taken together, the steel, aluminum, and copper industries account for more than 10 percent of industrial usage in the United States. President Bush's national energy plan recognized that improving energy efficiency in our most energy-intensive industries could yield large improvements in productivity, product quality, safety, and pollution prevention.

Second, we have a strategic national interest in helping our metals industry remain competitive. For any industry, energy efficiency means increased production without increased energy consumption or costs. Improving energy efficiency helps the bottom line, making American metal products more competitive on the global market. That means more jobs here at home.

But energy efficiency is more than that. Reducing energy use means reducing our emissions of pollutants and greenhouse gases, and increasing our energy security. In this way, energy efficiency just makes sense, dollars and cents, for the Nation.

H.R. 1158 recognizes this fact and puts in place a new requirement that program managers consider the potential for technologies to reduce greenhouse gas emissions when developing their research plans. In this way the bill updates the plan to address current concerns about the impact of energy-intensive industries.

For these reasons, both the Committee on Science and the full House passed a similar bill by voice vote in the 108th Congress, and the Committee on Science approved H.R. 1158 by voice vote in March.

I encourage my colleagues to demonstrate support for this bill again today.

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

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join the gentlewoman from Illinois (Mrs. BIGGERT) in support of H.R. 1158, the Steel and Aluminum Energy Conservation and Technology Competitiveness Act. I commend her for her support today, and I also commend the gentlewoman from Pennsylvania (Ms. HART) for taking a leadership role in pursuing this

legislation dating back to the last Congress.

This bill will benefit our constituents, Democrat and Republican alike. It has been a pleasure to have this opportunity to work in a bipartisan effort to bring this measure to the floor today.

Today, almost one-quarter of the steel production in the United States is in the Chicago, northern Indiana region. But, unfortunately, our country no longer hails as the world's leading producer. My constituents in the Third District of Illinois have been especially impacted by the changes that have come from increased foreign competition. In my area, families and communities have been badly hurt by job losses. But the impact has also been felt in other places around the country.

My father-in-law in Johnstown, Pennsylvania lost his job as a steelworker when his plant was forced to close. This bill will help prevent further losses of good American jobs by increasing the competitiveness of our domestic manufacturing.

I also strongly believe that the overall prospects for the American steel industry have an important bearing on our future economic security as well as our national security. For these reasons, I strongly support this bill, which has become known as the metals initiative.

This bill, improving upon a program which was originally passed by the 108th Congress, authorizes Federal cost-sharing of research. The goals of this research are threefold: increased competitiveness for the U.S. metals industry, energy efficiency, and a cleaner environment.

The development of technologies that will increase energy efficiency as well as improve our international competitiveness is key to maintaining our national security, both from an economic and a military perspective. Likewise, the implementation of more environmentally friendly technologies that reduce emissions or reduce demand for petroleum will result in both a public benefit, a cleaner environment; and a private benefit, a cut in the cost of production.

The metals initiative has three very important provisions that make it a commonsense vehicle for pursuing cooperation between government and industry. First, there is a payback provision which requires that the Federal investment be repaid out of net proceeds of commercialization once the technology is developed. This provision prevents the program from taking on the negative connotations of a mere Federal subsidy. Instead, it provides a framework for these domestic companies, their employees, and the communities that rely upon the revenue bases to benefit from the new technologies that are made possible through this public-private partnership.

The second provision that makes this partnership work is the 70 percent/30 percent government-industry cost-

share. When industry puts their own money at risk, the projects get senior management attention. Historically, these types of steel research and development projects have yielded results that meet national needs and are highly marketable, producing a win-win situation.

□ 1415

The third provision calls for industry ownership of intellectual property produced from the research. Twenty-five years of experience under the Bayh-Dole Act has shown that when ownership of patents is left with inventors, the likelihood that patents will be put to commercial use dramatically increases. This factor creates opportunities for economic growth and better job security for hard-working Americans.

The Metals Initiative is simply a great example of how public private partnerships can benefit both taxpayers and share holders. It will help enrich the overall economy, offer much needed stimulation for the growth of technology in key industries, and protect the environment. With recent changes in trade laws and other international forces at work, we owe it especially to the people who work in these industries. All Americans benefit from such commonsense programs. I urge my colleagues to support H.R. 1158 today and vote "yes" on this bill.

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

Mrs. BIGGERT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Pennsylvania (Ms. HART), who is the sponsor of this legislation.

Ms. HART. Mr. Speaker, I thank the gentlewoman from Illinois (Chairwoman Biggert) and ranking member (Mr. HONDA) of the Energy Subcommittee for working together to make sure that this bill moved forward. I am pleased for their support and also for the support of the Science Committee chairman, the gentleman from New York (Mr. BOEHLERT), and ranking member, the gentleman from Tennessee (Mr. GORDON), for moving the bill through committee and also for their support. I especially thank the gentleman from Illinois (Mr. LIPINSKI), who just spoke, for working with me on this legislation, H.R. 1158, the bill to reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act.

The steel industry is one of the most energy-intensive industries with energy accounting for a major portion of the cost of production. Improvement in energy efficiency is therefore an important component to reducing the cost of steel and thereby making us more competitive.

Recent experiences have shown that energy costs per unit of output of steel can be reduced significantly through more intelligent capital-intensive investments in modifications to existing plants and equipment and conversion to more energy-efficient processes.

Investment made at the government level in partnerships with industry to stimulate achievement of this increased energy efficiency has shown great results over the years.

This legislation would reauthorize the steel and aluminum competitiveness act, which established a public private partnership, a research initiative. It is cost sharing with government and industry, focused on improving industrial energy efficiency in the steel and aluminum and fabrication industries.

The bill will result in improved energy efficiency in the domestic metals industries, thereby improving our competitiveness and also improving the cost and quality of the actual product. This efficiency offers environmental benefits through reduced emissions per unit of steel and aluminum produced. It can also help reduce the future demand for energy in this industrial sector.

The steel industry and the Department of Energy continue this partnership under the Metals Initiative and its predecessor, the Steel Initiative, even after the authorization expired; so, therefore, it is something that is successful enough to have provided with its funding.

For fiscal year 2006, the administration has only recommended \$6.5 million. That is \$3.8 million for steel and \$2.7 million for aluminum, which is slightly more than half of the \$11.1 million provided in 2004.

This legislation would reauthorize the 1988 act through 2010. Over the years, 58 steel companies and 23 research organizations participated in and benefited from this program. Two of those companies, INTEG Process Group and U.S. Steel from my area, participated in a subcommittee hearing on this bill last year and testified regarding the benefits this initiative has produced; the jobs it has obviously preserved and provided; the opportunity that it has provided in those industries as well.

The bill authorizes \$12 million for this program for fiscal years 2006 through 2010, for a total of \$60 million over 5 years. It is an investment that is well worth it to preserve and grow an industry that is so important to our country.

This bill is right for this industry, it is right for energy security, and it is right for our competitiveness, and it is good for the environment.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 1158, the Steel and Aluminum Energy Conservation and Technology Competitiveness Act. I want to thank my friend and colleague from Illinois, Representative BIGGERT for her leadership, as well as Representative MELISSA HART, for her persistence in introducing this legislation in the 108th Congress and again in the 109th Congress.

I am pleased Chairman BOEHLERT and Ranking Member GORDON acted quickly in the House Science Committee to mark-up this bill and bring it to the floor today because it helps our steel, aluminum, copper, and other metal

industries stay competitive in today's global marketplace.

H.R. 1158, the Steel and Aluminum Energy Conservation and Technology Competitiveness bill before us today authorizes the Department of Energy to develop a public and private partnership to build upon important research goals, such as energy efficiency, increasing competitiveness of the U.S. metals industries, and improving the environment. By working together, both the taxpayers and share holders can benefit from this federal cost share between the government and the metals industries.

The domestic steel industry alone has come a long way since the steel crisis began in 1988. In my home state of Illinois, the crisis has resulted in four steel companies filing for bankruptcy, including Laclede Steel and the parent company for Granite City Steel, which are in my Congressional District. Approximately 5,000 steel workers lost their jobs in Illinois alone.

Now, prices are stabilizing and the industry is restructuring and consolidating. All of this has happened without hampering the availability of competitively priced steel products. However, aggressive trade laws and other international pressures can damage the progress that was made. Therefore, it is important we continue down the path of successful recovery because the overall prospects for our steel industry can affect our future economic and national security.

As a member of the Congressional Steel Caucus, I am deeply committed to making sure the metals industries stay competitive and for these reasons, I support to this bill and urge my colleagues to do the same.

Mr. LIPINSKI. Mr. Speaker, we have no more speakers. I yield back the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FORBES). The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 1158, 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.

**HIGH-PERFORMANCE COMPUTING REVITALIZATION ACT OF 2005**

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 28) to amend the High-Performance Computing Act of 1991, as amended.

The Clerk read as follows:

H.R. 28

*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 "High-Performance Computing Revitalization Act of 2005".*

**SEC. 2. FINDINGS.**

*Section 2 of the High-Performance Computing Act of 1991 (15 U.S.C. 5501) is amended by adding at the end the following new paragraph:*

*"(10) Commercial application of the results of Federal investment in basic and computing science is consistent with longstanding United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments."*

**SEC. 3. DEFINITIONS.**

*Section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended—*

*(1) in paragraph (2), by inserting "and multidisciplinary teams of researchers" after "high-performance computing resources";*

*(2) in paragraph (3)—*

*(A) by striking "scientific workstations,";*

*(B) by striking "(including vector supercomputers and large scale parallel systems)";*

*(C) by striking "and applications" and inserting "applications"; and*

*(D) by inserting "and the management of large data sets" after "systems software";*

*(3) in paragraph (4), by striking "packet switched"; and*

*(4) by amending paragraphs (5) and (6) to read as follows:*

*"(5) 'Program' means the High-Performance Computing Research and Development Program described in section 101; and*

*"(6) 'Program Component Areas' means the major subject areas under which are grouped related individual projects and activities carried out under the Program."*

**SEC. 4. HIGH-PERFORMANCE COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.**

*Title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.) is amended—*

*(1) in the title heading, by striking "AND THE NATIONAL RESEARCH AND EDUCATION NETWORK" and inserting "RESEARCH AND DEVELOPMENT";*

*(2) in section 101—*

*(A) the section heading, by striking "NATIONAL HIGH-PERFORMANCE COMPUTING" and inserting "HIGH-PERFORMANCE COMPUTING RESEARCH AND DEVELOPMENT";*

*(B) in subsection (a)—*

*(i) in the subsection heading, by striking "NATIONAL HIGH-PERFORMANCE COMPUTING" and inserting "HIGH-PERFORMANCE COMPUTING RESEARCH AND DEVELOPMENT";*

*(ii) by striking paragraphs (1) and (2) and inserting the following: "(1) The President shall implement a High-Performance Computing Research and Development Program, which shall—*

*"(A) provide for long-term basic and applied research on high-performance computing;*

*"(B) provide for research and development on, and demonstration of, technologies to advance the capacity and capabilities of high-performance computing and networking systems;*

*"(C) provide for sustained access by the research community in the United States to high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems, including provision for technical support for users of such systems;*

*"(D) provide for efforts to increase software availability, productivity, capability, security, portability, and reliability;*

*"(E) provide for high-performance networks, including experimental testbed networks, to enable research and development on, and demonstration of, advanced applications enabled by such networks;*

*"(F) provide for computational science and engineering research on mathematical modeling and algorithms for applications in all fields of science and engineering;*

*"(G) provide for the technical support of, and research and development on, high-performance computing systems and software required to address Grand Challenges;*

*"(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, computer and network security, applied mathematics, library and information science, and computational science; and*

*"(I) provide for improving the security of computing and networking systems, including Federal systems, including research required to establish security standards and practices for these systems.";*

*(iii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;*

*(iv) in paragraph (2), as so redesignated by clause (iii) of this subparagraph—*

*(I) by striking subparagraph (B);*

*(II) by redesignating subparagraphs (A) and (C) as subparagraphs (D) and (F), respectively;*

*(III) by inserting before subparagraph (D), as so redesignated by subclause (II) of this clause, the following new subparagraphs:*

*"(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities;*

*"(B) establish Program Component Areas that implement the goals established under subparagraph (A), and identify the Grand Challenges that the Program should address;*

*"(C) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program"; and*

*(IV) by inserting after subparagraph (D), as so redesignated by subclause (II) of this clause, the following new subparagraph:*

*"(E) develop and maintain a research, development, and deployment roadmap for the provision of high-performance computing systems under paragraph (1)(C); and"; and*

*(v) in paragraph (3), as so redesignated by clause (iii) of this subparagraph—*

*(I) by striking "paragraph (3)(A)" and inserting "paragraph (2)(D)";*

*(II) by amending subparagraph (A) to read as follows:*

*"(A) provide a detailed description of the Program Component Areas, including a description of any changes in the definition of or activities under the Program Component Areas from the preceding report, and the reasons for such changes, and a description of Grand Challenges supported under the Program";*

*(III) in subparagraph (C), by striking "specific activities" and all that follows through "the Network" and inserting "each Program Component Area";*

*(IV) in subparagraph (D), by inserting "and for each Program Component Area" after "participating in the Program";*

*(V) in subparagraph (D), by striking "applies;" and inserting "applies; and";*

*(VI) by striking subparagraph (E) and redesignating subparagraph (F) as subparagraph (E); and*

*(VII) in subparagraph (E), as so redesignated by subclause (VI) of this clause, by inserting "and the extent to which the Program incorporates the recommendations of the advisory committee established under subsection (b)" after "for the Program";*

*(C) in subsection (b)—*

*(i) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;*

*(ii) by inserting "(1)" after "ADVISORY COMMITTEE.—";*

*(iii) in paragraph (1)(C), as so redesignated by clauses (i) and (ii) of this subparagraph, by inserting "including funding levels for the Program Component Areas" after "of the Program";*

*(iv) in paragraph (1)(D), as so redesignated by clauses (i) and (ii) of this subparagraph, by striking "computing" and inserting "high-performance computing and networking"; and*

*(v) by adding at the end the following new paragraph:*

“(2) In addition to the duties outlined in paragraph (1), the advisory committee shall conduct periodic evaluations of the funding, management, coordination, implementation, and activities of the Program, and shall report not less frequently than once every two fiscal years to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on its findings and recommendations. The first report shall be due within one year after the date of enactment of this paragraph.”; and

(D) in subsection (c)(1)(A), by striking “Program or” and inserting “Program Component Areas or”; and

(3) by striking sections 102 and 103.

#### SEC. 5. AGENCY ACTIVITIES.

Title II of the High-Performance Computing Act of 1991 (15 U.S.C. 5521 et seq.) is amended—

(1) by amending subsection (a) of section 201 to read as follows:

“(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Science Foundation shall—

“(1) support research and development to generate fundamental scientific and technical knowledge with the potential of advancing high-performance computing and networking systems and their applications;

“(2) provide computing and networking infrastructure support to the research community in the United States, including the provision of high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems, and including support for advanced software and applications development, for all science and engineering disciplines; and

“(3) support basic research and education in all aspects of high-performance computing and networking.”;

(2) by amending subsection (a) of section 202 to read as follows:

“(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Aeronautics and Space Administration shall conduct basic and applied research in high-performance computing and networking, with emphasis on—

“(1) computational fluid dynamics, computational thermal dynamics, and computational aerodynamics;

“(2) scientific data dissemination and tools to enable data to be fully analyzed and combined from multiple sources and sensors;

“(3) remote exploration and experimentation; and

“(4) tools for collaboration in system design, analysis, and testing.”;

(3) in section 203—

(A) by striking subsections (a) through (d) and inserting the following:

“(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

“(1) conduct and support basic and applied research in high-performance computing and networking to support fundamental research in science and engineering disciplines related to energy applications; and

“(2) provide computing and networking infrastructure support, including the provision of high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems, and including support for advanced software and applications development, for science and engineering disciplines related to energy applications.”; and

(B) by redesignating subsection (e) as subsection (b);

(4) by amending subsection (a) of section 204 to read as follows:

“(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

“(1) the National Institute of Standards and Technology shall—

“(A) conduct basic and applied metrology research needed to support high-performance computing and networking systems;

“(B) develop benchmark tests and standards for high-performance computing and networking systems and software;

“(C) develop and propose voluntary standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computing systems in networks and for common user interfaces to high-performance computing and networking systems; and

“(D) work with industry and others to develop, and facilitate the implementation of, high-performance computing applications to solve science and engineering problems that are relevant to industry; and

“(2) the National Oceanic and Atmospheric Administration shall conduct basic and applied research on high-performance computing applications, with emphasis on—

“(A) improving weather forecasting and climate prediction;

“(B) collection, analysis, and dissemination of environmental information; and

“(C) development of more accurate models of the ocean-atmosphere system.”; and

(5) by amending subsection (a) of section 205 to read as follows:

“(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Environmental Protection Agency shall conduct basic and applied research directed toward advancement and dissemination of computational techniques and software tools for high-performance computing systems with an emphasis on modeling to—

“(1) develop robust decision support tools;

“(2) predict pollutant transport and the effects of pollutants on humans and on ecosystems; and

“(3) better understand atmospheric dynamics and chemistry.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Tennessee (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

#### GENERAL LEAVE

Mrs. BIGGERT. 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. 28, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, when we think of how computers affect our lives, we probably think of the work we do on our office desktop machines or maybe the Internet surfing we do in our spare time. We do not normally think of the enormous contribution that supercomputers, also called high-performance computers, make to the world around us.

A recent report by the Council on Competitiveness outlined how high-performance computers currently are used in various industries. The report concluded that “there is great potential for increased productivity, innovation and competitive advancement across the private sector” as more in-

dustries learn how to take advantage of supercomputing technologies.

This is not at all surprising. At a Science Committee hearing last year, we learned that supercomputers allow companies to anticipate how new products will behave in different environments using simulations that are called “virtual prototyping.”

For instance, the automotive industry uses high-performance computers to reduce costs and improve quality and safety during the vehicle design process. Pharmaceutical companies simulate chemical interactions to design new drugs. These approaches help companies increase the speed to market for new products.

High-performance computers also are central to maintaining U.S. leadership in many scientific fields. Computational science complements theory and experimentation in fields such as plasma physics and fusion, astrophysics, nuclear physics and genomics.

However, in June 2002, a new Japanese supercomputer, the Earth Simulator, was named the fastest in the world, a title it held through November 2004. Some experts claim that Japan was able to produce the Earth Simulator, a computer far ahead of American machines, because the U.S. had taken an overly cautious or conventional approach to computing R&D. In hindsight, we see that caution meant lost opportunities. Japan's Earth Simulator is an example of a road not taken.

But the U.S. is coming back. Last fall, American machines took the two top spots on the list of fastest supercomputers, pushing the Earth Simulator to third. I commend IBM and Silicon Graphics, Inc. for producing these amazing new machines.

The bill we are considering on the House floor today, H.R. 28, the High-performance Computing Revitalization Act of 2005, will ensure that America remains a leader in the development and use of supercomputers.

To achieve this aim, the bill does four things. First, it requires that Federal agencies provide the U.S. research community access to the most advanced high-performance computing systems and technical support for their users.

Second, there is more to computing than building big machines. That is why the bill requires Federal agencies to support all aspects of the high-performance computing for scientific and engineering applications.

Third, the bill requires the White House Office of Science and Technology Policy to direct an interagency planning process to develop and maintain a road map for the provision of high-performance computing resources for the U.S. research community.

The original legislation that the bill amends, the High-performance Computing Act of 1991, gave rise to an interagency planning process that has lost the vitality it once had. This provision will help ensure a robust planning process so that our national high-



performance computing effort is not allowed to lag in the future.

Finally, the bill clarifies the mission of each of the Federal agencies that have a role in developing or using high-performance computing.

Mr. Speaker, this bill was the subject of a full committee hearing in May of 2004. At that hearing, Dr. John Marburger, director of the White House Office of Science and Technology Policy, communicated the administration's support for this bill. The bill is also consistent with a report written by the High End Computing Revitalization Task Force and released by OSTP on the day of the hearing.

More recently, the President's Information Technology Advisory Committee, known as PITAC, on April 14 approved the recommendations for a report on computational science they will issue shortly. Designed to ensure U.S. preeminence and competitiveness in the computational science, these recommendations include sustained access for the research community to the highest end supercomputers, devotion of resources to software development and data management, and creation of a multidecade road map for computational science and the fields that require it. In other words, the actions this report recommends are exactly what today's bill requires the Federal Government to do.

The Nation's experts on PITAC, Dr. Marburger, and the Bush administration all recognize that we cannot imagine the kinds of problems that the supercomputers of tomorrow will be able to solve, but we can imagine the kinds of problems we will have if we fail to provide researchers in the United States with the computing resources they need to remain world-class.

This bill will guide Federal agencies in providing needed support to high-performance computing and its user communities. Our Nation's scientific enterprise and our economy will be stronger for it. I urge my colleagues to support this bill.

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

Mr. DAVIS of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

First of all, I would like to commend my colleague, the gentlewoman from Illinois (Mrs. BIGGERT), for her constant work on the Science Committee and these particular areas for the work that she has done over the last several years and her consistent leadership in support of the high-end computing.

I also thank my colleagues in the House for passing the previous version of this bill in the 108th Congress, and hopefully the Senate will pass this bill also in a timely manner.

H.R. 28 aims to restore U.S. world leadership in the area of high-performance computing. Supercomputing is a large national effort spread out over seven Federal agencies. This resolution seeks to better coordinate those agen-

cies' efforts and to improve both short-term and long-term planning.

The Oak Ridge National Laboratory near my district is a center of national leadership and high-performance computing. Oak Ridge is the Department of Energy's largest science and energy laboratory. This lab is involved in many innovative research projects, including renewable energy, materials science, national security, and bio-science.

I am proud that the Oak Ridge National Lab near my district stands to become the home of the world's most powerful supercomputer.

I envision thousands of scientists traveling to Oak Ridge to use the computing facilities. The discoveries they make will change how we diagnose and cure diseases, heat and cool our homes, travel from place to place, and defend our liberties in time of warfare.

H.R. 28 will strengthen and streamline our national efforts in the areas of high-performance computing. I commend this bill and recommend this bill to my colleagues and ask for their support.

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

Mrs. BIGGERT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Science Committee, the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Speaker, this is very important legislation. It deals with the competitiveness of the United States of America in the global marketplace. This is something that too many take for granted that we are going to continue to be preeminent in the competitive world. We are not going to be preeminent in the competitive world if we do not invest wisely, if we do not direct our resources in the proper way, because the competition is all over the place. It is not just one State against another. It is the United States against the world. We are ahead. That is a position I like. I like to be ahead of the parade.

But I will tell you, when we look back, we see a lot of people following closely behind. So it is critically important that we do things like investing in high-performance computing. And among other things, this bill directs the director of the Office of Science and Technology Policy, that is the science advisor to the President of the United States, to develop and maintain a research development and deployment road map for the provision of high-performance computing systems for use by the research community in the United States of America.

□ 1430

Now, that is a very important assignment. And we want Dr. Marburger down at the White House to know that those of us in the legislative branch are determined to give the resources nec-

essary, the direction necessary to enable him to go forward, confident that he has the support, the bipartisan support of the Congress of the United States. So I commend this bill to my colleagues. I commend this bill to the other side of the Capitol, our colleagues in the United States Senate.

This is important business and let us get on with it. I thank my chairwoman, the gentlewoman from Illinois (Mrs. BIGGERT) for the outstanding leadership she has provided and I thank my colleagues for their indulgence.

Mr. DAVIS of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I believe I am the only one to come to this floor to oppose this bill. I will try to yield back at least a few minutes to the gentleman and hopefully they will be available should my comments result in comments of others that need rebuttal.

I support science. It is important to America. It is important to my district. But as we look at what we can accomplish, we also have to examine what we should try to accomplish. While we expand the tools of the human race, we must also look at the pitfalls.

This is an issue that I have been talking about for a long time. I first brought it to the floor 5 years ago and that is best illustrated by the fact that roughly 50,000 years ago was the last time that a new level of intelligence came to this planet. It was our ancestors, who said hello to Neanderthal, the only other intelligence on the planet that we were aware of at the time. It did not work out so well for the Neanderthal.

Today we are as a species looking at two exciting new technologies, each which is likely to create an entity, a life form, with a higher level of intelligence than human beings; and, in fact, a higher level by a differential that exceeds whatever differential there was between human beings and Neanderthals. One of these technologies is genetic engineering. And if this was a genetic engineering bill, I would not get to speak on it as long because there would be more members to speak against it, worried about the societal implications. But genetic engineering raises questions that should also be raised by computer engineering, because the kind of high-technology, high-performance computer which is the subject of the bill is an important step towards the development of an artificial life form that will exceed human intelligence.

We had hearings 2 years ago in the Committee on Science where the consensus of experts and I did not invite any of these experts, senior committee members did, (chiefly the chairman) they testified that we are roughly 25 years away from a computer that exceeds human intelligence.

Now, I do not know whether it is 25 years or whether it is a bit longer or a bit less, but should we go headlong into developing the next intelligent species on this planet without even including, in the slightest, in our legislation something to say “let us examine whether this is something we want to do, and whether we want to have any controls.”

The truth is, Mr. Speaker, we do not know whether we are creating Data from “Star Trek, The Next Generation,” or whether we are creating Hal from “2001: A Space Odyssey.” We know that the future will look like science fiction. We just do not know which science fiction book or movie.

Last year when the Committee on Science considered this same bill as H.R. 4218, the gentleman from New York (Mr. BOEHLERT) and I reached an agreement on an amendment that would provide for looking at the societal implications of future advances in information technology. That amendment was included in the bill that passed this House. Specifically, it directed the National Science Foundation to support research into the implications of computers, both hardware and software, that were capable of mimicking human ability to learn to reason and to make decisions. Likewise, the nanotechnology bill which passed both houses, and is now law, provided for even more extensive review into the societal implications, including explicitly the implications of developing levels of intelligence that exceeds those of human beings. But H.R. 28 strips out the provisions that were included in prior legislation. This draft says we will do nothing to look at the societal, the ethical, the environmental implications of what we are doing, and we will rush headlong into trying to do it without the slightest thought of whether we should do it.

My amendment in committee was defeated 17–19 on what was unfortunately, and inexplicably a party-line vote. My amendment put forward just a few weeks ago was identical to the compromise language the chairman and I reached in the 108th Congress.

Now, the importance of understanding how artificial intelligence will be achieved through information technology, how it will impact society—that importance has not decreased since last year. The amendment should be included before this bill leaves this House.

Now, I know there are those who say it is okay to create a computer that exceeds human intelligence and that is self-aware because it will not have hands and will not be able to act except through human beings. Trust me, there are those amongst us who would sell hands to the devil for a good stock tip. If you create Pandora’s box, it will be opened.

Now, H.R. 28 deals with the creation of high-performance computers; and as I said and want to say again, the testimony before our committee was that

we are 25 years, and this is not one crackpot, this was a consensus; the range was 20 to 30 years between now and when we develop a computer that exceeds human intelligence. And it is not just me. The DARPA, the Defense Advanced Research Project Agency, has on its Web page the statement that its mission, supported by this bill, is to develop a computer which will “learn from its experience, be aware of itself, and be able to reflect on its own behavior.”

So part of our government is engaged in trying to create maybe Hal, maybe Data, while here in the Congress we pretend that it is impossible, that it is not an issue worthy of reflection. DARPA is going to create a reflective computer, but we do not have a reflective Congress.

Now, I understand that H.R. 28 is an important bill to set goals and priorities in high-performance computer research development with a number of different agencies, including DARPA and its subsidiary agencies. What I do not understand is why there is such resistance to studying the implications of this research. We cannot and should not plunge ahead without a provision to study these implications.

Join me in rejecting this bill on suspension. A bill with this level of implications should not be considered under a suspension of the rules. Send this bill back to the Committee on Science. Have the Committee on Science create a balanced program. Overwhelmingly, this bill should deal with supporting the technology, marching forward, achieving all of the goals that the preceding speakers have indicated. But then let us also put in the bill just a little language to say that we ought to look at the implications: Whether it is likely that this technology will create an entity more intelligent than human beings? Whether that entity is likely to be self-aware? How we could either cause or prevent such self-awareness? What are the societal and ethical implications of having a slave entity reflective, intelligent, and commanded to do what we instruct, without so much as the minimum wage?

So let us pass this bill next month, after the Committee on Science can provide some balance to it.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I mentioned earlier the Committee on Science held a hearing on the high-performance computer in May of last year. And at that time my colleague, the gentleman from California (Mr. SHERMAN) asked the experts who testified at that hearing whether there was any danger of computers approaching the cognitive abilities of humans. And the witnesses gave a resounding no in answer to that question.

More specifically, my colleague wanted to know how close we were to a machine that has reached a level of intelligence where it would be entitled to the minimum wage. Dr. Jack

Marburger, the President’s Science Advisor responded, “Not very. We are quite far from that in terms of number of components measured in neurons; for example, the interconnectivity of the human brain far exceeds anything that we can currently build or foresee in the foreseeable future with computer hardware.”

Dr. Rick Stevens, a renowned computer scientist from Argonne National Laboratory, responded to the same question saying, “My personal view is that I would be much more concerned with near-term issues associated with large-scale computing or the use of large-scale data systems to collect information. Right now, if you had to estimate what is the most intelligent device we can build, it is roughly between a worm and an insect in terms of what it can do.”

I think it is exceedingly inappropriate for this bill to impose a requirement on our Federal agencies to focus on the societal implications of hypothetical human-mimicking computers. Doing so would suggest that we as a body fundamentally misunderstand the nature and focus of high-performance computing research.

In addition, as Dr. Stevens pointed out at our hearing last year, information technology has societal implications for privacy, for workplace collaboration and for many other areas. Our Federal agencies should focus any resources for societal studies on these real and immediate needs.

Finally, NSF already has the ability to conduct research generally into social, economic, and work-force implications of information technology. We should allow the research community, via the peer review process, and the agency to determine if this sort of research becomes necessary. This should not be a mandate in this bill.

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

Mr. DAVIS of Tennessee. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. FORBES). The gentleman from Tennessee (Mr. DAVIS) has 9 minutes remaining.

Mr. DAVIS of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I thank the gentleman for his additional generosity. I wish to respond to the comments of the gentlewoman.

Mr. Speaker, I will submit for the RECORD the section of DARPA’s mission statement that I referred to previously where DARPA itself indicates that its mission, using the funds provided by this Congress, is to create a computer that is self-aware and able to reflect on its own behavior.

Mr. Speaker, we have thrown around terms as to what is close and what is not. It just comes down to whether 25 years, 30 years, is something close enough for us to be concerned about, or should we be concerned about only the immediate future? I would point out

that we are not going to have self-aware computers for at least 10, maybe 15 or 20 congressional elections. And so if that is how we measure time, self-aware computers are a long way away. But when we approve construction projects and roads, we do not build bridges that are going to collapse in 25 or 30 years, and we assume that human beings will be the only intelligent species using those bridges.

If we are concerned when we build infrastructure for things 20, 30, 50, 100 years down the road, then we should be even more concerned with this bill. And we should not pass this bill in this form and say, well, we will worry about these issues when they come up in some subsequent decade.

□ 1445

In addition, it is put forward that we will just have the scientists and the research community figure out how to deal with these issues. That is perhaps the problem, because if we provide the support exclusively to the hardware and software scientists and nothing to those who will consider the societal implications, the ethical implications, the philosophical implications—then no one will be looking at those issues, then we will not have done our job to provide a balanced, scientific research bill. That is why I am voting “no.”

The material I referred to previously is as follows:

DARPA STRATEGIC PLAN: SECTION 3.7: COGNITIVE COMPUTING (RELEASED FEBRUARY 2005)

Many elements of the information technology revolution that have vastly improved the effectiveness of the U.S. forces and transformed American society (e.g., time-sharing, personal computers, and the Internet) were given their impetus by J.C.R. Licklider, a visionary scientist at DARPA some 40 years ago. Licklider's vision was of people and computers working symbiotically. He envisioned computers seamlessly adapting to people as partners that would handle routine information processing tasks, thus freeing the people to focus on what they do best—think analytically and creatively—and greatly extend their cognitive powers. As we move to an increasingly network-centric military, the vision of intelligent, cooperative computing systems responsible for their own maintenance is more relevant than ever.

Despite the enormous progress in information technology over the years, information technology still falls well short of Licklider's vision. While computing systems are critical to U.S. national defense, they remain exceedingly complex, expensive to create, insecure, frequently incompatible, and prone to failure. And, they still require the user to adapt to them, rather than the other way around. Computers have grown ever faster, but they remain fundamentally unintelligent and difficult to use. Something dramatically different is needed.

In response, DARPA is revisiting Licklider's vision as its inspiration for the strategic thrust, “Cognitive Computing.” Cognitive computers can be thought of as systems that know what they're doing. Cognitive computing systems “reason” about their environments (including other systems), their goals, and their own capabilities. They will “learn” both from experience and by being taught. They will be capable of natural interactions with users, and will be

able to “explain” their reasoning in natural terms. They will be robust in the face of surprises and avoid the brittleness and fragility of expert systems.

The benefits from this cognitive computing thrust will be profound. The increasing complexity of military systems means that the level of expertise needed to maintain them is also increasing—as are the staffing requirements for virtually every military function that uses computing and communications technology. By creating systems that know what they are doing, and that can configure, maintain, and adapt themselves, we will be able to drastically reduce the staff needed for operations centers, forward command posts, and even in support of small dismounted units and special operations teams. Cognitive computing technology will also help us to deal with the increasing tempo of operations and the complexity of plans, such as Air Tasking Orders and joint hostage rescue operations plans, by allowing computers to tap into the accumulated knowledge of past experience on behalf of their human partners.

Along these lines, DARPA's Personalized Assistant that Learns (PAL) program will create intelligent personalized assistants for many tasks, such as a commander's assistant, an intelligence analyst's assistant, or a decision-maker's executive assistant. These assistants will interact with their human partners by accepting direct, naturally expressed guidance to learn their partner's preferences and procedures. Then, they will be able to anticipate the human's needs and prepare materials to be ready just in time for them. These new and unprecedented artificial helpers should reduce military staffing needs in many key places and will help ensure decisions are made in a timely fashion and with the best possible preparation.

To meet these challenges and seize these opportunities, DARPA has structured its work in cognitive computing to catalyze innovative work in single cognitive systems, collaborative teams of cognitive systems, and collective cognition from large numbers of small non-cognitive elements. Each area will demonstrate the power of merging reasoning, learning, perception, and communication technologies. These areas will be supported and complemented by broad-based technology efforts in the hardware, software, and integration techniques needed.

The strategic thrust of cognitive computing is a template shaping DARPA's core technology foundation work in information technology.

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

Mr. DAVIS of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

I certainly understand the gentleman from California's (Mr. SHERMAN) efforts in an attempt to amend the bill in the committee process. As the gentleman from Illinois (Mrs. BIGGERT) has explained, however, there are other areas today in the policy of NSF that literally would look into the particular issues that he has raised with his amendment.

As a result of that, both the ranking member and the chairman agreed that this legislation is what we need to be considering today. So I strongly support this bill. I think that it is good for America. I think it is good perhaps even for the world; but, certainly, it is good in the areas where research and science is a major part of offering op-

portunities and options for those of us who live in this country.

So on that effort, I again make my comments of being sorry that the gentleman from California's (Mr. SHERMAN) efforts were not successful in the committee. Actually, last year, we did consider that amendment, and it actually passed the House floor; but I recommend strongly to the Members of the House passage of this bill, strongly support this bill.

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

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

I would agree with the gentleman from Tennessee that we really do have the means to conduct research generally and to the social, economic and workforce implication of information technology, and NSF has that ability; and I think that that is all that is necessary. We do not want a mandate in this bill.

In closing, Mr. Speaker, I want to recognize the bill's chief cosponsor, the gentleman from Tennessee (Mr. DAVIS), and thank him for all the great work that he has done on this bill. It is a very important bill to his district, to my district, and to all of the Nation.

I would also like to thank the other cosponsor of this important legislation, including the gentleman from New York (Mr. BOEHLERT), the distinguished chairman of the Committee on Science; along with the gentleman from Tennessee (Mr. GORDON), the ranking member; the gentleman from South Carolina (Mr. INGLIS); the gentlewoman from Oregon (Ms. HOOLEY); and the gentleman from Illinois (Mr. JOHNSON), and I thank them all for their support.

With that, I would also like to thank my colleagues in this body for supporting an identical bill to this one in the 108th Congress; and, finally, I would like to extend my thanks to the Committee on Science staff, majority and minority, for their hard work to bring this bill to the floor today.

As I said earlier, we must commit to providing sustained support for high-performance computers at our Federal civil science agencies. H.R. 28 represents just such a commitment. Our Nation's scientific enterprise and our economy will be the stronger for it. I would urge my colleagues to support the bill.

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

The SPEAKER pro tempore (Mr. FORBES). The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 28, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECOGNIZING THE SIGNIFICANCE OF AFRICAN AMERICAN WOMEN IN THE UNITED STATES SCIENTIFIC COMMUNITY

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 96) recognizing the significance of African American women in the United States scientific community, as amended.

The Clerk read as follows:

H. CON. RES. 96

Whereas African American women, once considered nontraditional participants in the United States scientific community, have become an indispensable part of the new technology society;

Whereas although women comprise approximately 25 percent of the 427,740 individuals employed in the United States workforce who hold a science and engineering doctoral degree, African American women comprise less than one percent of such individuals;

Whereas a skilled workforce is the essential fuel to propel the United States economy and ensure a high quality of life, and it is absolutely critical to the success of the economy to produce a scientifically literate workforce;

Whereas for these reasons, it is crucial for the United States to continue to aggressively recruit more minority and women students into careers in science and technology;

Whereas to improve the numbers of African American youth pursuing science, especially young women, it is crucial to provide strong scientific minds for them to look up to and emulate;

Whereas very little literature documents African American women and their place in science;

Whereas commemorating the achievements of African American women at the very top of the performance curve demonstrates to the world the importance of diversity in the workforce; and

Whereas Dr. Ruth Ella Moore (who in 1933 became the first African American woman to earn a Ph.D. in natural science from the Ohio State University), Dr. Roger Arliner Young (who in 1940 became the first African American woman to receive a Ph.D. in zoology from the University of Pennsylvania), Dr. Euphemia Lofton Haynes (who in 1943 became the first African American woman to receive a Ph.D. in mathematics from the Catholic University of America), Dr. Shirley Ann Jackson (who in 1973 became the first African American woman to receive a Ph.D. in physics from the Massachusetts Institute of Technology), and Dr. Mae Jemison (a physician and the first African American woman in space) represent only a few of the African American women who have broken through many barriers to achieve greatness in science: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress acknowledges and recognizes the significant achievements and contributions of African American women scientists, mathematicians, and inventors and supports the establishment of a special day on which these great minds may be honored and esteemed.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

GENERAL LEAVE

Mrs. BIGGERT. 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. 96, as amended, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 96, a resolution to recognize the significant contributions of African American women to the U.S. scientific community.

In recent history, it has become almost ordinary for talented individuals from diverse backgrounds to pursue educational opportunities in fields that were previously considered all white male domains. Yet today's women and minorities could never have succeeded in the once nontraditional fields of science, engineering, and mathematics had it not been for the courage of their predecessors.

For today's young women, it is difficult to appreciate how exceptional it was for African American women in particular to pursue a career in science. For those born in the early 20th century, they were told that they did not belong; and they felt lucky if they found work as research assistants to, or unpaid volunteers for, male scientists.

Yet the grit and perseverance of women like Ruth Ella Moore, the first African American woman to receive a Ph.D. in natural science from Ohio State University, as well as civil rights legislation and the women's movement, help to overcome these obstacles. They also helped pave the way for the successes of women like Shirley Ann Jackson, the first African American woman to receive a Ph.D. from MIT, and Mae Jemison, the first African American woman in space as a crew member of the shuttle Endeavor.

Today, African American women scientists hold positions at all levels of universities, government laboratories, and industry. They chair departments and scientific societies; and they serve on peer review committees, something that was unthinkable just 25 years ago.

The women we are honoring in House Concurrent Resolution 96 are more than pioneers. They are role models for a new generation of women who are just beginning to think about their life's work and future ambitions and explore their many opportunities. Yet, despite these successes, women and minorities are still under-represented in undergraduate and graduate science and engineering education.

As national demographics shift, we simply cannot rely only on our traditional science, mathematics, engineering and technology workforce, which is overwhelmingly white and male, and retiring. If the U.S. is to remain innovative and competitive, we must nurture, prepare, and engage young women

and minorities in science, technology, engineering, and mathematics today.

That is what this resolution is all about. By underscoring the importance of diversity and recognizing the significant scientific achievements of African American women, I hope we can inspire more young women, and men, to follow in the footsteps of those who pursued science with such passion and enthusiasm.

In conclusion, I want to thank the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for her leadership on this very important issue. I urge my colleagues to support this resolution.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from New York (Chairman BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) for their bipartisan support of this resolution and in our Committee on Science markup last month during Women's Month. I also want to commend the gentlewoman from Illinois (Mrs. BIGGERT) for her willingness to help us move this bill forward here today.

As this Nation faces a shortage of qualified scientists, it is appropriate that we discuss the significant contributions that African American women have made to the scientific community. Most people that know me know that this has been a passion of mine for many years.

In the past, most of the U.S. scientists and engineers were white males. According to Census Bureau projections, this segment of the workforce population will decline from 37 percent in 1995 to 26 percent in 2050. Looking at these numbers, it is obvious that this group will not provide the needed scientists and engineers, particularly since participation rates in these fields are also declining.

Clearly, it will be necessary to attract greater numbers of women and minorities to careers in science and engineering in order to avoid devastating consequences for the future. Efforts to increase the presence of Americans in science are incomplete unless they have a women's component. Some progress has been made, but much remains to be accomplished. Women make up half the population, but only 24 percent of the science and engineering workforce. African Americans, Hispanics, and Native Americans as a group constitute 24 percent of the U.S. population, but only 7 percent of the total science and technology workforce.

African American women have an especially difficult time bridging the technology divide when it comes to their representation in the science fields. While women make up about 25 percent of the 427,740 employed science and engineering doctorate holders in the United States workforce, African American women comprise less than 1

percent employed as science and engineering doctorate holders. Many African American women who pursue science education experience isolation both in their graduate departments and in their communities.

So who are their mentors? One of the first pioneers was Dr. Ruth Ella Moore, the first African American woman to receive a doctoral degree in natural science in 1933. Dr. Moore graduated in 1933 from Ohio State University with a doctorate degree in bacteriology and was head of the department of bacteriology at Howard University's Medical School from 1947 to 1958.

In the field of space exploration, while most are familiar with Dr. Mae Jemison, few are aware that Katherine Coleman Goble Johnson was a key member of the control room during the Apollo 13 crisis. Katherine Johnson, a physicist, space scientist and mathematician, was instrumental in formulating calculations that helped the Apollo 13 return home safely in 1970 after a fuel tank explosion and computer system failure. That was detailed in Tom Hanks's film, "Apollo 13."

Unfortunately, many young African Americans are unfamiliar with these facts. Very little literature documents African American women and their place in science. To increase the number of African American youth pursuing science, especially young women, it is critical that we provide them strong science role models for them to admire and emulate.

In addition, commemorating the achievements of African American women at the very top of the performance curve demonstrates to the world the importance of diversity in the workforce, especially in the scientific community.

That is why I ask my colleagues to join me today by honoring our great African American women pioneers who helped pave the way for current science stars, like Dr. Mae Jemison and Dr. Shirley Ann Jackson.

As a medical doctor and the first African American woman in space, Dr. Jemison continues to inspire young people in the science field with her program, The Earth We Share International Camp, called TEWS, T-E-W-S, which is an acronym. It is designed to promote science literacy for all students.

Dr. Shirley Ann Jackson was not only the first African American to receive a Ph.D. in physics from MIT but was also the first African American woman to receive a doctorate in any field from that school.

This resolution recognizes their achievements in science and technology and encourages a new generation of young women to continue in their legacies.

Again, I wish to thank the gentleman from New York (Chairman BOEHLERT) and the gentleman from Tennessee (Ranking Member GORDON) for working with me in a collegial manner, as we always do on the Committee on

Science, and for allowing quick passage of the resolution and speedy action to the floor.

I urge my colleagues to vote "yes" on H. Con. Res. 96. This resolution represents our most needed commitment to supporting the continued progress of women and minorities and, in particular, African American women in the sciences. Full participation by all of our diverse population in an endeavor this important will be our key to future success as a world leader in science and technology.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

□ 1500

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume to again congratulate the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), and I urge all my colleagues to vote for this bill.

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

The SPEAKER pro tempore (Mr. FORBES). The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 96, 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.

#### RECOGNIZING SECOND CENTURY OF BIG BROTHERS BIG SISTERS AND SUPPORTING THE MISSION AND GOALS OF THAT ORGANIZATION

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 41) recognizing the second century of Big Brothers Big Sisters, and supporting the mission and goals of that organization.

The Clerk read as follows:

H. CON. RES. 41

Whereas the year 2004 marked the 100th anniversary of the founding of Big Brothers Big Sisters;

Whereas Congress chartered Big Brothers in 1958;

Whereas Ernest Coulter recognized the need for adult role models for the youth he saw in court in New York City in 1904 and recruited "Big Brothers" to serve as mentors, beginning the Big Brothers movement;

Whereas Big Brothers Big Sisters is the oldest, largest youth mentoring organization in the nation, serving over 220,000 children in 2004 and approximately 2,000,000 since its founding 100 years ago;

Whereas Big Brothers Big Sisters has historically been supported through the generosity of individuals who have believed in the organization's commitment to matching at-risk children with caring, volunteer mentors;

Whereas Big Brothers and Big Sisters have given countless hours and forever changed

the lives of America's children, contributing over 10,500,000 volunteer hours at an estimated value of \$190,000,000 in 2004;

Whereas evidence-based research has shown that the Big Brothers Big Sisters mentoring model improves a child's academic performance and relationships with teachers, parents, and peers, decreases the likelihood of youth violence and drug and alcohol use, and raises self-confidence levels;

Whereas 454 local Big Brothers Big Sisters agencies are currently contributing to the quality of life of at-risk youth in over 5,000 communities across the United States; and

Whereas the future of Big Brothers Big Sisters depends not only on its past impact, but also on the future accomplishments of its Little Brothers and Little Sisters and the continued commitment of its Big Brothers and Big Sisters: Now, therefore, be it

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

(1) recognizes the second century of Big Brothers Big Sisters, supports the mission and goals of the organization, and commends Big Brothers Big Sisters for its commitment to helping children in need reach their potential through professionally supported one to one mentoring relationships with measurable results;

(2) asks all Americans to join in marking the beginning of Big Brothers Big Sisters' second century and support the organization's next 100 years of service on behalf of America's children; and

(3) encourages Big Brothers Big Sisters to continue to strive towards serving 1,000,000 children annually.

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

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

GENERAL LEAVE

Mr. LATOURETTE. 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 House Concurrent Resolution 41, the concurrent resolution under consideration.

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

There was no objection.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Government Reform, I rise in support of House Concurrent Resolution 41, a resolution that honors one of America's greatest charities. This year marks the 101st year since the founding of Big Brothers Big Sisters.

Over the past century, this organization has been devoted to the well-being and development of our Nation's young people. Big Brothers Big Sisters aims to provide a mentor to every child who wants or needs one. Today, Big Brothers Big Sisters serves over 200,000 children ages 6 to 18, nationwide.

Performance statistics prove that children who are mentored by Big Brothers Big Sisters are much less likely than their peers to use illegal drugs or alcohol, to skip school, and

are more likely to have strong relationships with their families.

Today, the House specifically recognizes the thousands of mentors who have made a difference through Big Brothers Big Sisters during its first century. Mentoring a child requires no special training or experience, just a willingness to spend time with a child during his or her formative years. We salute their compassion.

Mr. Speaker, along with my distinguished colleagues, the gentleman from California (Mr. SCHIFF) and the gentleman from Nebraska (Mr. OSBORNE), I commend Big Brothers Big Sisters for its commitment to helping children in need reach their potential, and I urge the adoption of House Concurrent Resolution 41.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join my colleague, the gentleman from Ohio (Mr. LATOURETTE) by stating my strong support for H. Con. Res. 41, recognizing the second century of Big Brothers Big Sisters and supporting the mission and goals of that organization.

Mr. Speaker, 2004 marked the 100th anniversary of Big Brothers Big Sisters, one of the Nation's greatest civic programs. Big Brothers Big Sisters is the oldest and largest youth-mentoring organization in the United States. As of last year, the organization served an astounding 225,000 youth between the ages of 5 and 18 in 5,000 communities across the country.

Research has demonstrated that mentoring helps at-risk youth overcome the many obstacles they face in their lives. Youths in the program, or "Littles" as they are called, are less likely to use illegal drugs, consume alcohol, skip school, or engage in acts of violence.

I want to thank the gentleman from California (Mr. SCHIFF) for introducing this important legislation. Big Brothers Big Sisters has made a positive impact on the lives of impoverished young people, especially, and others throughout the Nation. We all owe them a great debt of gratitude, and I trust they will have success as they continue in their work.

On a very personal note, Mr. Speaker, I had the good fortune to serve as a Big Brother to a little brother of mine, who then went on to become a staff person and work for the Mayor, Sharon Pratt, of Washington, D.C., and then went on to work for Vice President Al Gore, eventually becoming, and he is now, the minister and pastor of a church out in Maryland. So I know that the Big Brothers program is a good program; that it does work, because Reverend Courtney Miller is a prime example of that. And I certainly wish Courtney well as we wish the continuation of the Big Brothers Big Sisters program.

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

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Nebraska (Mr. OSBORNE), one of the lead cosponsors of this legislation.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time, and I rise in support of this concurrent resolution. I want to congratulate Big Brothers Big Sisters on 100 years of service. I think any organization that lasts for 100 years is certainly doing some things correctly.

At this time, I would like to point out, Mr. Speaker, that it is a very difficult time to be a young person in our Nation. We have a great deal of family instability. Roughly 50 percent of our children today are growing up without both biological parents, so they have suffered some serious dysfunction in their lives. Roughly 22 million young people today are fatherless, and of course they are moving into a world in which a drug and alcohol culture and violence is quite prevalent. So it is very, very difficult.

We find that mentoring is one way that we can help these young people negotiate their way through a very difficult world. Mentoring works. As my colleague from Ohio mentioned earlier, it improves graduation rates and it improves school attendance. One of the programs I work with very closely improves attendance by 80 percent. It improves grades significantly. The program I am involved with, about a 40 percent improvement. It improves peer and family relationships and even improves personal hygiene, which is something that many people do not realize. It decreases drug and alcohol abuse in many programs by as much as 50 percent. It decreases crime, gang membership, teen pregnancy, and dropout rates.

So this is about the best thing we have going, and it is very important to remember that it is very cost effective. It costs about \$30,000 a year to lock somebody up, and yet most mentoring programs, some of the very best ones, cost maybe \$400 to \$500 per mentee per year. So we cannot have a better return on investment than that.

I serve as a mentor. I have been mentoring a young person now for about 3 years, and I had another young person for 4 or 5 years before that. My wife also mentors. A mentor is somebody who cares, somebody who shows up. An awful lot of young people in our culture today do not have an adult in their life that they can count on; that they know cares about them unconditionally and will be there for them through thick and thin.

A mentor is somebody who affirms. Again, so many young people today in our culture do not have anyone in their lives who say "I believe in you, I see some talent, I think you could be a mechanic, I think you could be someone who can go to a community college, I think you could do well in school." So affirmation is something that all of us have to have in order to live effectively, and a mentor provides that.

A mentor is someone who provides a vision of what is possible, because so many times a young person grows up in a family where no one has graduated from high school, no one has gone to college, no one has set any type of vision out there for them as to what they might be. So a mentor oftentimes fulfills that role.

According to the National Mentoring Partnership, 18 million children in our country today need a mentor, yet only about 2.5 million actually are being mentored. Big Brothers Big Sisters accounts for roughly one-tenth of that number. So we have a huge gap from what is needed to what we are actually getting done.

We had a mentoring amendment attached to the No Child Left Behind bill that last year was funded at \$50 million. This year, that money is in jeopardy. A lot of that money went to Big Brothers Big Sisters. So I would certainly like to encourage my colleagues to support this program and further this cause, because we have reached hundreds of thousands of young people as a result of it.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Illinois (Mr. DAVIS) and the gentleman from Nebraska (Mr. OSBORNE) for sharing their personal experiences with us relative to mentoring, and I urge passage of the concurrent resolution.

Mr. REYES. Mr. Speaker, I rise today in support of H. Con. Res. 41, a resolution highlighting the mission and goals of Big Brothers and Big Sisters and to recognize a hundred years of success in the organization.

I applaud the work that Big Brothers Big Sisters perform on a daily basis to assist America's youth. As you are well aware, Big Brothers Big Sisters of America has helped more than one million children nationwide in its 100 years of operation. Youth with mentors are significantly less likely to try drugs or alcohol, skip school, or exhibit violent behavior. Children who participate in Big Brothers Big Sisters programs have better relationships with peers, get better grades, and get along better with their families as a result of the one-on-one attention of a caring adult role model.

My district in El Paso, TX, is faced with significant challenges in deterring youth from becoming involved in drugs, alcohol, and violent activities. Founded in 1999, Big Brothers Big Sisters of El Paso has an excellent reputation in my district and has shown tremendous results. In fact, Big Brothers Big Sisters of El Paso has already drawn over \$1 million in State and Federal funds to our city. Because Big Brothers Big Sisters works with schools and businesses, it acts as a catalyst in the community helping bring business men and women into the lives of students and strengthening the bond between program participants and the community. Last year, I was honored to be selected to serve as an honorary board member of the Big Brothers and Big Sisters of El Paso.

Mr. Speaker, I am pleased to join my colleagues in recognizing Big Brothers for their century of service to America's young people.

Mr. SCHIFF. Mr. Speaker, I rise today in support of House Concurrent Resolution 41

recognizing the second century of Big Brothers Big Sisters, the oldest and largest youth mentoring organization in the United States which celebrated its 100th anniversary last year.

I want to thank Representative TOM OSBORNE for joining me in introducing this resolution and for his strong advocacy of mentoring. I also want to thank Chairman TOM DAVIS and Ranking Member HENRY WAXMAN of the House Government Reform Committee for their diligence and helpfulness in getting this resolution to the Floor today. And I also appreciate and want to thank Senator JOHN ENSIGN and Senator CHRISTOPHER DODD for their leadership in introducing this resolution in the Senate.

But the big heroes are the untold thousands of volunteers—Big Brothers and Big Sisters throughout the country—who for the last one hundred years have played critical roles in the mentoring of our nation's youth. Lastly and most of all, I would like to thank all of the Little Brothers and Little Sisters because they have been the ones to enrich our lives.

As you know, when Representative OSBORNE and I introduced this resolution in February, I came to the Floor to speak about my almost two decades of experience being a Big Brother, and my accomplished, now not-so-Little Brother, David. I was a young prosecutor in Southern California when I first became a Big Brother, and David was just seven years old. Through fun outings, good talks and merely spending time together, we learned a lot about each other and a lot about ourselves. He is now a Yale and USC film school graduate, and is embarking upon a wonderful career and many new adventures. Because of Big Brothers Big Sisters, I again experienced through David a child's wide-eyed optimism about the future, a teenager's eager determination to understand oneself and a young adult's pursuit of success.

Kids need to learn and mature in safe and nurturing environments, yet so many face difficult circumstances through broken families, poverty or simply a lack of opportunities. These situations create an emotional burden very heavy to bear at any age, but especially upon children. In some cases, these burdens are too much to bear, and a child who could have contributed greatly to society takes a much more destructive path. We can prevent this from happening. Through Big Brothers Big Sisters and like-minded organizations, we can reach those at risk of delinquency, and help them lead productive lives. Our children truly are an investment in the future, and all of those who have participated in mentoring know that it is an investment that pays off greatly.

Since 1904, Big Brothers Big Sisters has been enabling Americans to make this investment—hundreds of thousands of times over, one child at a time. We thank Big Brothers Big Sisters for the magnificent contribution they have made to our country and we look forward to many more years of continuing success.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LATOURETTE. 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 Ohio (Mr. LATOURETTE) that the House suspend

the rules and agree to the concurrent resolution, H. Con. Res. 41.

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.

#### MAYOR TONY ARMSTRONG MEMORIAL POST OFFICE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1236) to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the "Mayor Tony Armstrong Memorial Post Office".

The Clerk read as follows:

H.R. 1236

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

#### SECTION 1. MAYOR TONY ARMSTRONG MEMORIAL POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, shall be known and designated as the "Mayor Tony Armstrong Memorial Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Mayor Tony Armstrong Memorial Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

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

#### GENERAL LEAVE

Mr. LATOURETTE. 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. 1236, the bill under consideration.

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

There was no objection.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, this post office naming legislation honors a wonderful civic leader. Tony Armstrong had served as mayor of Sparks, Nevada, since being first elected in 1999. Sadly, Mayor Armstrong passed away on January 29 from complications due to a December surgery to remove his spleen. He was 59 years of age. H.R. 1236 will name a post office in his honor in his hometown of Sparks, and I support its passage.

Mr. Speaker, with the exception of a 6-year stint in the Nevada Air National Guard during the 1960s, Tony Armstrong had lived in Sparks since the age of 4. In 1989, he was elected to the Sparks City Council, where he served until becoming mayor in 1999. He was a man whose passionate principles shaped his leadership. As his former

colleague on the city council, Councilman Mike Carrigan said, "Mayor Armstrong's priorities were God first, his family second, and the City of Sparks third."

Mayor Armstrong is survived by his beloved wife, Debby, and his adult children Richard, Keith and Misti. Our hearts and prayers go out to the entire Armstrong family.

Mr. Speaker, I know that my distinguished colleague, the gentleman from Nevada (Mr. GIBBONS) was very close with Mayor Armstrong. They grew up together and they have served the people of Nevada together. I thank the gentleman for honoring his friend, Tony Armstrong, by dedicating this post office in his honor, and I urge all my colleagues to join me in supporting H.R. 1236.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume. As a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 1236, legislation designating the postal facility in Sparks, Nevada, after the late Tony Armstrong, mayor of Sparks. This measure, which was introduced by our colleague, the gentleman from Nevada (Mr. GIBBONS) on March 2005, enjoys the support and co-sponsorship of the entire Nevada State delegation.

Tony Armstrong grew up in Sparks, Nevada, and after serving in the Nevada Air National Guard and opening a general contracting business, he was elected in 1989 to the Sparks City Council, representing Ward Three. Ten years later, in 1999, he was elected mayor of Sparks. During his tenure as mayor, he worked hard to promote the image of his city. Sadly, he passed away on January 29, 2005. Mayor Armstrong left behind his wife, two sons, and a daughter.

Mr. Speaker, I urge swift passage of this bill and note that it is definitely a way to honor the work of the mayor of Sparks, Nevada.

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

□ 1515

Mr. LATOURETTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank the gentleman from Ohio (Mr. LATOURETTE) for yielding me this time to speak on H.R. 1236.

It is both with pride and sadness that I rise today in support of H.R. 1236, the Mayor Tony Armstrong Memorial Post Office Designation Act.

Tony Armstrong and his family moved to Sparks, Nevada, from California when he was just 4 years old. Tony made Sparks his home until his untimely death in January of this year. Tony and I met as young kids, and typical of all kids, created trouble for our parents in Sparks, Nevada.

We both graduated from Sparks High School, and while I served in the United States Air Force, Tony Armstrong served in the Nevada Air National Guard during the Vietnam War. Tony Armstrong served his country honorably and then turned his efforts to serving his beloved hometown of Sparks, Nevada.

In 1970, Tony Armstrong served as the chief deputy building inspector for Washoe County, Nevada, and later opened a general contracting business, which would become the largest and oldest home inspection service in Nevada.

In 1983, Tony was fortunate: he married Debbie Rimbey and was later blessed with two sons and a daughter. After a successful business career, Tony Armstrong turned his attention to becoming a public servant. He was elected to serve on the Sparks City Council in 1989 and was elected mayor a decade later. Over the years, no one has worked harder or loved that community more than Tony Armstrong.

The day before Mayor Armstrong died, he was awarded Civic Leader of the Year by the Reno-Sparks Chamber of Commerce.

Mr. Speaker, as a fitting tribute, H.R. 1236 would name the main post office in Sparks, Nevada, the Mayor Tony Armstrong Memorial Post Office. The post office that will receive this designation sits directly across the street from City Hall, the place where Tony Armstrong worked tirelessly. City Hall is a different place today without Tony's Hawaiian shirts passing through the hallways and his smiles greeting anyone and everyone who walked into his office. Mayor Armstrong may best be remembered for ensuring that visitors to Sparks City Hall would always be reminded that God blesses America. When told that the word God would have to be cut from all signs posted in City Hall, Tony made his own signs and posted them around the building. He declared, I guess I am just an old redneck Nevadan because I want my sign to say God bless America.

The people of Sparks have lost a gentleman, a patriot, and a servant of the people; and I have lost a dear friend. I urge my colleagues to support H.R. 1236, which will honor this extraordinary man, a man who put God, his family, and the citizens of Sparks above himself, a man who went above and beyond for his country, for his State, and for his community. I ask all Members to support H.R. 1236.

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Nevada (Mr. GIBBONS) for his reflections of his friend, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 1236.

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.

#### ED EILERT POST OFFICE BUILDING

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1524) to designate the facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, as the "Ed Eilert Post Office Building".

The Clerk read as follows:

H.R. 1524

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

#### SECTION 1. ED EILERT POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, shall be known and designated as the "Ed Eilert Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Ed Eilert Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

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

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1524 designates this postal facility in Overland Park, Kansas, as the Ed Eilert Post Office Building. The four members of the Kansas State congressional delegation have all endorsed this legislation, and I join them in support of the bill.

After more than a quarter of a century, Ed Eilert stepped down from being a leader in Overland Park government on Monday, April 11. Ed Eilert's public service career began when he was elected to the Overland Park City Council in 1977. In 1981, he was elected to the first of six terms as mayor of Overland Park that spanned 24 years. Overland Park has doubled in population and become Kansas' second largest city under Mayor Eilert's direction. Without question, Ed Eilert is a one-man institution in east central Kansas. This post office on Antioch Road is a natural and deserved commemoration of Mayor Eilert's legacy and distinguished leadership.

Mr. Speaker, on behalf of the Members of the House, I congratulate Mayor Ed Eilert on his tremendous tenure in local government and wish him the very best in retirement. I applaud the gentleman from Kansas (Mr. MOORE) for working toward passage of H.R. 1524.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join in the consideration of H.R. 1524, legislation designating a postal facility in Overland Park, Kansas, after Mayor Ed Eilert. This measure, which was introduced by the gentleman from Kansas (Mr. MOORE) on April 6, 2005, enjoys the support and co-sponsorship of the entire Kansas State delegation.

Ed Eilert was first elected in 1981. As mayor of Overland Park for 24 years, he worked hard to improve the condition of his city. The population has doubled, the number of projects tripled, and the number of hotels has increased dramatically. Business and opportunities have also grown. A convention center is now home to Overland Park, and more hospitals have been added. Overland Park is now Kansas' second largest city.

The growth occurred under the leadership and vision of Mayor Eilert. This week Mayor Eilert steps down from his position, and what a wonderful way to honor the achievements of Ed Eilert. I join my colleagues in honoring Mayor Ed Eilert and urge the swift passage of this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE of Kansas. Mr. Speaker, I rise today in support of legislation designating the United States Postal Service facility located at 12433 Antioch Road in Overland Park, Kansas, as the Ed Eilert Post Office Building. I was joined in sponsoring this legislation by the gentleman from Kansas (Mr. TIAHRT), the gentleman from Kansas (Mr. RYUN), and the gentleman from Kansas (Mr. MORAN); and I am grateful for their support.

Recently, an era came to an end in Overland Park. Mayor Ed Eilert stepped down as mayor, an office to which he was elected six times and held for a total of 24 years. Since he was sworn into office in 1981, Overland Park has grown to become Kansas' second largest city. Its population has nearly double to over 165,000. The number of people working within the city limits has more than tripled with roughly 120,000 jobs in Overland Park today, and hotel capacity has increased from 800 rooms to 5,100 rooms.

During his tenure, 21,000 single-family and 19,000 multi-family residences have been added in Overland Park, along with 23.7 million square feet of office, retail, and industrial space.



Over the years, the city has seen the arrival of the Sprint campus, three new hospitals, the University of Kansas Edwards campus, the Carlsen Center at Johnson County Community College, and a city convention center.

Additionally, under Ed Eilert's leadership, the city added the landmark Clock Tower Plaza and the Farmers Market in the downtown area, a neighborhood conservation program, and Arboretum and Botanical Gardens, the International Trade Center, the W. Jack Sanders Justice Center, and interchanges at I-435 at both Nall Avenue and Quivira Road.

Mayor Eilert also supported construction of the Fire Training Center which has been used by many other cities and county fire departments in the Kansas City metropolitan area, and he worked with Johnson County Community College to create a training facility for Burlington Northern Santa Fe Railway employees on the college campus.

And during Mayor Eilert's tenure, the city's land area expanded by 36 percent to nearly 62 square miles. Finally, Overland Park enjoys a top rating for a solid financial condition. It has received numerous awards as an outstanding city. For years, Overland Park has had the lowest property tax rate of any first-class city in Kansas.

Ed Eilert was first elected to Overland Park City Council in 1977 and became council president in 1980. He formerly taught at Shawnee Mission North High School and knows firsthand how Overland Park has benefited from its nationally recognized school systems.

He made his first visit to the city in 1960 because it was the home of Jan Bush, whom he met while studying at Emporia State University and would marry 2 years later. The Eilerts moved to Overland Park in 1965 when he completed graduate school. In 1977, he began his first campaign for political office and has been a public servant since then. He has also been a financial consultant with A.G. Edwards & Sons and serves on the board of directors of Metcalf Bank.

When we consider the array of challenges that Ed Eilert faced in his 24 years as mayor of Overland Park, Members cannot help but agree with Bob Sigmund, the opinion page editor of the Johnson County Sun who recently wrote that "Ed Eilert provided the vision and leadership in shaping Overland Park's success as an ideal place to live, work and raise a family. Eilert's political skills have been especially useful in easing tensions and maintaining an acceptable balance between the older, established neighborhoods in northern Overland Park and the rapidly expanding new subdivisions in the south."

I am proud to call Ed Eilert my friend. While we are members of different political parties, I have always been impressed by his sound judgment, diligence, and dedication to his com-

munity and to the public welfare. When he sought the Republican nomination for the House in 1996, he lost narrowly to then-State Representative Vince Snowbarger for the nomination to succeed Representative Jan Meyers. I often tell third district residents that I would have not sought election to Congress myself had Ed Eilert been elected 2 years before I became a candidate for the office.

Dedication of this postal service facility in Overland Park is a small, but fitting, tribute to a man who has dedicated most of his adult life to public service at the community level. He has worked tirelessly to bring people together while ensuring quality economic development and competence in the delivery of local services. I commend Mayor Ed Eilert and again thank my colleagues in the Kansas House delegation for their support. I urge my colleagues to approve this legislation today, and I hope the other body will follow suit quickly so we can see it signed into law.

Mr. MORAN of Kansas. Mr. Speaker, I rise in support of H.R. 1524. I thank my colleague, Mr. MOORE, for sponsoring this legislation to name the post office at 12433 Antioch Road in Overland Park after long-time Mayor Ed Eilert.

The job of mayor is a challenging position. Each day they are tasked with the responsibility of making their community, their home, a better place to live. They do this with the eye of the public always on them as they live and work in that community. The fact that May Eilert was re-elected six times speaks volumes of his dedication and character. During his over 24 years in office, Mayor Eilert worked hard to improve Overland Park, and his leadership is well respected.

Mr. MOORE spoke of the infrastructure improvements that Mr. Eilert helped bring to Overland Park—the Clock Tower Plaza, KU's Edwards Campus and the Fire Training Center, to name a few. I want to emphasize that these centers and buildings are much more than physical structures. They are symbols of economic development, job creation and improvements in quality of life. During the time Ed served as Mayor, Overland Park grew to be the second-largest city in Kansas. Ed's vision helped to ensure that the city is both bigger and better for the businesses, individuals and families who are proud to call Overland Park their home.

Mayor Eilert's commitment to Overland Park extended beyond his role as mayor. He was an active member of many civic organizations including the League of Kansas Municipalities and the National League of Cities. He has also served as secretary and treasurer of the Johnson/Wyandotte Counties Council of Mayors. He currently serves as a commissioner of the Kansas and Missouri Metropolitan Cultural District, a board member of Services for Seniors and Advocates for Citizens with Retardation, a member of the advisory council for Emporia State University's school of business and a member of the advisory council for United Community Services and Temporary Lodging for Children.

Mayor Eilert is a charter member of the South Overland Park Rotary Club, the Overland Park Historical Society, the Overland Park Arboretum and Friends of Johnson

County Developmental Supports. He also is a member and elder, and a former chairman of the board, of Overland Park Christian Church. I commend Ed for his service to the community and his contributions to improving the quality of life in Overland Park.

I recognize that Kansas is home to many leaders who work to make our state a great place to live and work. I also acknowledge that our growth and prosperity is possible because of the efforts of local leaders like Mayor Eilert who are willing to serve our communities. Mayor Eilert touched lives every day. He directly affected the residents of Overland Park in a positive way. I am grateful for his hard work and dedication, and I join with my fellow Kansas representatives in honoring Mayor Eilert.

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

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Kansas (Mr. MOORE) for his reflections of his friend, urge passage of the bill; and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 1524.

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.

#### RECOGNIZING AND HONORING CONTRIBUTIONS OF INDIAN AMERICANS TO ECONOMIC INNOVATION AND SOCIETY GENERALLY

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 227) recognizing and honoring the contributions of Indian Americans to economic innovation and society generally.

The Clerk read as follows:

##### H. RES. 227

Whereas the United States is deeply enriched by its Indian American residents;

Whereas the Indian American community and the graduates of the Indian Institutes of Technology (IIT) in the United States have made valuable and significant contributions to society in every profession and discipline; and

Whereas IIT graduates are highly committed and dedicated to research, innovation, and promotion of trade and international cooperation between India and the United States: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the valuable and significant contributions of Indian Americans to American society;

(2) honors the economic innovation attributable to graduates of the Indian Institutes of Technology; and

(3) urges all Americans to recognize the contributions of Indian Americans and have a greater appreciation of the role Indian Americans have played in helping to advance and enrich American society.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

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

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Res. 227, which I introduced to recognize the contributions to our Nation of Indian Americans, and specifically the graduates of the Indian Institutes of Technology.

After winning independence in 1947, India began building a democratic nation to provide its citizens with equal opportunities.

□ 1530

One of the successes of the new nation was the Indian Institute of Technology, or IIT, which was established in Kharagpur in May, 1950. Today there are seven IIT campuses across India. IITs have become synonymous with excellence in technology and engineering education.

Since the inception of IIT, thousands of graduates have sought and achieved the highest levels of professional successes in the United States and indeed throughout the world. IIT graduates are estimated to have stimulated the creation of over 150,000 jobs in the U.S. Most Silicon Valley firms have at least one IIT graduate among their top executives. In my district in Northern Virginia, we literally have dozens of IIT executives running their own companies, producing thousands of jobs. Almost all IIT alumni attribute their success to the rigorous educational foundation they received at IIT.

Mr. Speaker, the U.S. has attracted more IIT graduates than any other country because we remain on the cutting edge of the science and technology fields. In recognition of IIT graduates' contributions to our Nation, the second Global IIT Alumni Conference will be held in nearby Bethesda, Maryland from May 20 through 22. The conference will attract over 1,500 attendees from all over the United States and around the world.

Mr. Speaker I am pleased that the House is recognizing the achievements of Indian Americans and IIT graduates in helping to make the United States the global leader it is. Indian Americans are wonderful ambassadors of their homeland, and they strengthen the strong friendship between India and the United States, the two largest democratic nations in the world.

Mr. Speaker, I urge all my colleagues to join me in recognition of the important contributions made by Indian

Americans and IIT graduates to our national economy. I thank the House India Caucus and all the cosponsors for their support of this resolution.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important that we acknowledge from time to time our individual histories and what makes us unique. I believe that it is our differences that make our Nation strong. Therefore, I am very happy to join the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the House Committee on Government Reform, in support of H. Res. 227, recognizing and honoring the contributions of Indian Americans to economic innovation and to society generally.

According to a 2000 census, the Indian American population stands at over 1.6 million. This represents a 106 percent increase over the 1990 census figures. In fact, Indian Americans are the largest-growing Asian American community in the United States.

In addition to being a growing community within our society, the Indian American population also is a wonderful contributor to our Nation's well-being. The Indian American median family income is \$60,093, which is significantly higher than the national median family income of \$38,885. This high-income level is not only an example of their determination and hard work, but it is also a testament to the strong regard they hold for education. More than 87 percent of Indian Americans have completed high school, while at least 62 percent have completed some college. The value that members of the Indian American community place on education allows them and helps them to succeed in this country and to become positive role models and economic forces for all of us.

As our Nation struggles to teach the value of education to our young, I strongly believe that we should hold in high regard the Indian American community's commitment to higher education. It is indeed inspirational. So once again, Mr. Speaker, I would like to thank the gentleman from Virginia (Mr. TOM DAVIS) for his leadership on this issue and reiterate my strong support for H. Res. 227.

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Speaker, I rise in strong support of what I think is a very appropriate resolution.

I am very proud to be the son of Indian immigrants to this country. Though born and raised in Louisiana, I am very proud of their background. Certainly I think not only my parents but the interior Indian American community is a great example of living the

American dream. And so many stories have been told, and there are so many wonderful examples.

Certainly we can talk in terms of numbers. We can talk in terms of the IIT graduates who are now doing so well in Fortune 500 companies in this country. Certainly we can talk about the academic achievements. We can talk about the contributions to our high-tech industry in this country. We can talk about the contributions in medicine, in small business ownership. And the numbers are phenomenal. One of the most successful, if not the most successful, immigrant group. But I do not think the numbers tell the entire story. I think sometimes we have to look beyond the numbers and hear the personal stories.

My father, for example, is one of nine children, the first one in his family and the only one to go to high school, much less beyond high school. I am certainly very proud of everything my father has accomplished in this country. But it is not just my father. I am very proud of all the different Indian Americans I have the privilege of meeting who have achieved so much in their respective fields, and again I think a wonderful example of the American dream, a wonderful example that in this country we do provide opportunity if one works hard and pursues that education.

I often tease my parents. Mark Twain said that the older we become, the smarter our fathers become, the smarter our parents become. And I tease my parents because, now being the father of two children, I appreciate more and more what my parents have sacrificed, what they have endured and what they have accomplished. I appreciate more the significance of the accomplishments of the Indian American community. Some of those things we took for granted. I did, anyway, growing up. We did not really realize the significance of those struggles, those sacrifices, and how remarkable have been their collective and individual achievements.

Again, it is hard to exaggerate. The Indian American population numbers, according to census numbers, 1½ million people in this country. We are talking about the Indians in America, 87 percent have completed high school, almost two-thirds have at least some college education. Remarkable numbers, remarkable contributions. But, again, the numbers do not tell the entire story.

In my State, Indian American physicians serve some of the neediest areas, allow emergency rooms to stay open, provide primary care to those who would not otherwise have access to care. The numbers are amazing; 300,000 Indian Americans working in Silicon Valley, 750 of those companies headed by people of Indian American descent, responsible for 15 percent of the high-tech startups in the area.

Again when we look at the numbers, they tell an amazing story, but it is not just the numbers. Again, in my

home State, in my home district, Indian Americans own businesses in the biggest cities to the smallest communities, the most rural parts of my State, employing thousands of my citizens, of my constituents. So, again, I think it is a wonderful success story.

I want to thank the gentleman from Virginia (Chairman TOM DAVIS) for highlighting, through this resolution, the accomplishments of the Indian American people.

But I will just remind my colleagues two things in closing: One, it is my belief that the Indian American success story is a great testimony to the strength of the American dream, that the American dream is alive and well. One of the reasons I was so passionate to become a Member of this body was to nurture that dream for our children, to make sure that all of our children continue to have the same opportunities that brought my parents and others like them here in the first place. And, secondly, to say it is not just the numbers. It is not just the IIT graduates. It is not just the high-tech startups. It is not just the educational achievement. It is also the personal stories. Stories like my dad's, and others like him, who have not only done so well but have given so their kids and others around them might have a better quality of life.

Again, I want to thank the chairman and my colleagues for sponsoring and supporting this resolution. I am very proud to not only cosponsor the resolution but to be a part of a community that is so grateful and has done so much to contribute to this country.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I just want to thank the gentleman from Illinois on the other side of the aisle for helping us bring this bill to the floor and the gentleman from Louisiana, a Rhodes scholar and one who has brought credit to his heritage, to his State, and this body by serving here.

I urge my colleagues to support this resolution.

Mr. MENENDEZ. Mr. Speaker, I rise today in support of H. Res. 227, which would honor the contributions of Indian Americans in the field of information technology.

Like so many other groups, Indian Americans lend creativity, technical expertise, and innovation to their chosen fields. Every day, they show their dedication not only to improving the economy and competitiveness of this country, but to advancing a positive relationship between the United States and India.

This resolution presents us with an opportunity to thank those who have such an important impact on our society. Indian Americans have created thousands of jobs in the U.S. and hold senior positions at Fortune 500 companies, national labs, universities, and venture capital firms. And through their work as economists, researchers, educators, and social and political leaders, they have ensured that their extraordinary commitment will benefit not only this generation, but the next, as well.

That is why I support this resolution. The cornerstone of our society was built on the

contributions of many groups who brought intelligence and originality to their work in this country. And that is why I urge my colleagues to join me today in thanking Indian Americans by recognizing their contributions to information technology.

Mr. CROWLEY. Mr. Speaker, as the former Co-Chair of the Caucus on India and Indian Americans and the representative of one of the largest concentrations of Indian Americans in the United States, I have seen firsthand the contributions my friends from India have made.

I commend my colleague and good friend Rep. TOM DAVIS (R-VA) for introducing this legislation and talking about the contributions of Indian Americans. Representing the second highest concentration of Indian Americans in the country, I have seen for myself on 74th Street in Jackson Heights, Queens how successful and industrious Indian Americans are. That recipe for success starts with institutions like the Indian Institute of Technology, which we recognize today, and the far-reaching success of their graduates.

The Indian Institute of Technology (IIT) has had a long history of grooming fine minds that have gone on to achieve incredible success in India and around the world.

The first IIT was established in 1950 in Kharagpur and now 50 plus years later they have a total of seven institutes, with the newest one established by recognizing University of Roorkee, one of Asia's oldest engineering institutions, as IIT Roorkee. Many of the top Indians in industry have graduated from India's prestigious Indian Institute of Technology, like Vinod Khosla, founder of Sun Microsystems, to Rajat Gupta, the first non North America born head of the venerable consulting company McKinsey & Co.

I have had an opportunity to meet many graduates of IIT and all have spoken about the benefits of attending the institute.

I believe in today's current educational environment in the United States we can learn from the history of how the Indian government went about establishing this institute. After the Indians gained their independence from the British, they formed committees to explore ways of creating an educated class of people to move the country forward.

What they found was that to be competitive in the world they needed to excel in technology and engineering, which is where we in the United States find ourselves to be lacking today. We need to follow the example of our Indian friends and the example we set in the 1960's and create a national strategy to make the way we teach our children in the United States more focused on the math and sciences so we are not left behind.

Instead of fearing India as an economic competitor, we should be embracing India as an economic and political ally. The over 1 billion consumers in India and the market for U.S. goods and services in India allows for unprecedented opportunities for American companies, and job growth for Americans.

I want to thank Mr. DAVIS for introducing this resolution and urge all my colleagues to support it.

Mr. MORAN of Virginia. Mr. Speaker, I am pleased to be a co-sponsor of H. Res. 227 to honor all that Indian Americans have contributed to our country. Specifically, I would like to commend the graduates of the Indian Institutes of Technology (IIT) for their economic innovations and technological expertise.

After India gained its independence and began its new life as a democratic nation, a committee was formed to create institutes of higher education that would focus on technology to fuel the post-war industrial development of India. After looking at the committee recommendations, the first Indian Institute of Technology was created in May 1950. The campus was placed at the site of the Hijli Detention camp, which used to house young Indian freedom fighters during the independence movement.

Since that time 6 more campuses have been formed throughout India. IIT offers undergraduate and postgraduate degrees in more than 25 engineering, science, technology and management disciplines. Students are admitted after taking a national entrance exam and the student body is a diverse mixture of socio-economic backgrounds, cultures, languages, and religions.

After graduating from IIT, alumni are able to take the knowledge they gained and excel in technology and engineering sectors. Graduates are currently serving in senior positions at Citigroup and Sun Microsystems, among other established and Fortune 500 companies. They are also serving as Deans and Professors at the best universities in the United States, including Harvard, MIT and Carnegie Mellon.

The United States economy has felt the impact of IIT graduates. Over 25 percent of graduates since 1990 have been entrepreneurs and have started numerous companies that have fueled job creation in their communities. IIT alumni are also performing cutting edge research that is needed by U.S. companies, and a great number have received patents for their innovations.

The effect of Indian Institute of Technology graduates is felt here in the United States and throughout the world. It is important that all Americans recognize the great impact Indian Americans and IIT graduates have had on our society and economy. Without their knowledge, skill, and drive to achieve, our economy would not have as many technological innovations which enrich our daily lives.

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

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 227.

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.

---

#### PRESIDENTIAL \$1 COIN ACT OF 2005

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 902) to improve circulation of the \$1 coin, create a new bullion coin, and for other purposes, as amended.

The Clerk read as follows:

H.R. 902

*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 “Presidential \$1 Coin Act of 2005”.

**TITLE I—PRESIDENTIAL \$1 COINS****SEC. 101. FINDINGS.**

The Congress finds as follows:

(1) There are sectors of the United States economy, including public transportation, parking meters, vending machines and low-dollar value transactions, in which the use of a \$1 coin is both useful and desirable for keeping costs and prices down.

(2) For a variety of reasons, the new \$1 coin introduced in 2000 has not been widely sought-after by the public, leading to higher costs for merchants and thus higher prices for consumers.

(3) The success of the 50 States Commemorative Coin Program for circulating quarter dollars shows that a design on a United States circulating coin that is regularly changed in a manner similar to the systematic change in designs in such Program radically increases demand for the coin, rapidly pulling it through the economy.

(4) The 50 States Commemorative Coin Program also has been an educational tool, teaching both Americans and visitors something about each State for which a quarter has been issued.

(5) A national survey and study by the Government Accountability Office has indicated that many Americans who do not seek, or who reject, the new \$1 coin for use in commerce would actively seek the coin if an attractive, educational rotating design were to be struck on the coin.

(6) The President is the leader of our tripartite government and the President's spouse has often set the social tone for the White House while spearheading and highlighting important issues for the country.

(7) Sacagawea, as currently represented on the new \$1 coin, is an important symbol of American history.

(8) Many people cannot name all of the Presidents, and fewer can name the spouses, nor can many people accurately place each President in the proper time period of American history.

(9) First Spouses have not generally been recognized on American coinage.

(10) In order to revitalize the design of United States coinage and return circulating coinage to its position as not only a necessary means of exchange in commerce but also as an object of aesthetic beauty in its own right, it is appropriate to move many of the mottos and emblems, the inscription of the year, and the so-called “mint marks” that currently appear on the 2 faces of each circulating coin to the edge of the coin, which would allow larger and more dramatic artwork on the coins reminiscent of the so-called “Golden Age of Coinage” in the United States, at the beginning of the Twentieth Century, initiated by President Theodore Roosevelt, with the assistance of noted sculptors and medallist artists James Earle Fraser and Augustus Saint-Gaudens.

(11) Placing inscriptions on the edge of coins, known as edge-incusing, is a hallmark of modern coinage and is common in large-volume production of coinage elsewhere in the world, such as the 2,700,000,000 2-Euro coins in circulation, but it has not been done on a large scale in United States coinage in recent years.

(12) Although the Congress has authorized the Secretary of the Treasury to issue gold coins with a purity of 99.99 percent, the Secretary has not done so.

(13) Bullion coins are a valuable tool for the investor and, in some cases, an important aspect of coin collecting.

**SEC. 102. PRESIDENTIAL \$1 COIN PROGRAM.**

Section 5112 of title 31, United States Code, is amended by inserting after subsection (m) the following new subsection:

“(n) REDESIGN AND ISSUANCE OF CIRCULATING \$1 COINS HONORING EACH OF THE PRESIDENTS OF THE UNITED STATES.—

“(1) REDESIGN BEGINNING IN 2007.—

“(A) IN GENERAL.—Notwithstanding subsection (d) and in accordance with the provisions of this subsection, \$1 coins issued during the period beginning January 1, 2007, and ending upon the termination of the program under paragraph (6) shall have designs on the obverse selected in accordance with paragraph (2)(B) which are emblematic of the Presidents of the United States and a design on the reverse selected in accordance with paragraph (2)(A).

“(B) CONTINUITY PROVISION.—Notwithstanding subparagraph (A), the Secretary shall continue to mint and issue \$1 coins which bear the design on \$1 coins being minted and issued before the issuance of coins as required under this subsection.

“(2) DESIGN REQUIREMENTS.—The \$1 coins issued in accordance with paragraph (1)(A) shall meet the following design requirements:

“(A) COIN REVERSE.—The design on the reverse shall bear—

“(i) a likeness of the Statue of Liberty extending to the rim of the coin and large enough to provide a dramatic representation of Liberty while not being large enough to create the impression of a ‘2-headed’ coin;

“(ii) the inscription ‘\$1’; and

“(iii) the inscription ‘United States of America’.

“(B) COIN OBVERSE.—The design on the obverse shall contain the name and likeness of a President of the United States and basic information about the President, including the dates or years of the term of office of such President and a number indicating the order of the period of service in which the President served.

“(C) EDGE-INCUSED INSCRIPTIONS.—

“(i) IN GENERAL.—The inscription of the year of minting or issuance of the coin and the inscriptions ‘E Pluribus Unum’ and ‘In God We Trust’ shall be edge-incused into the coin.

“(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

“(D) INSCRIPTIONS OF ‘LIBERTY’.—Notwithstanding the 2d sentence of subsection (d)(1), because the use of a design bearing the likeness of the Statue of Liberty on the reverse of the coins issued under this subsection adequately conveys the concept of Liberty, the inscription of ‘Liberty’ shall not appear on the coins.

“(E) PROHIBITION ON SITTING PRESIDENT IN SERIES.—No coin issued under this subsection may bear the image of a President who, at the time of issuance, is currently serving as President.

“(3) ISSUANCE OF COINS COMMEMORATING PRESIDENTS.—

“(A) ORDER OF ISSUANCE.—The coins issued under this subsection commemorating Presidents of the United States shall be issued in the order of the period of service of each President, beginning with President George Washington.

“(B) TREATMENT OF PERIOD OF SERVICE.—

“(i) IN GENERAL.—Subject to clause (ii), only 1 coin design shall be issued for a period of service for any President, no matter how many consecutive terms of office the President served.

“(ii) NONCONSECUTIVE TERMS.—If a President has served during 2 or more nonconsecutive periods of service, a coin shall be issued under this subsection for each such nonconsecutive period of service.

“(4) ISSUANCE OF COINS COMMEMORATING 4 PRESIDENTS DURING EACH YEAR OF THE PERIOD.—

“(A) IN GENERAL.—The designs for the \$1 coins issued during each year of the period referred to in paragraph (1) shall be emblematic of 4 Presidents until each President has been so honored, subject to paragraph (2)(E).

“(B) NUMBER OF 4 CIRCULATING COIN DESIGNS IN EACH YEAR.—The Secretary shall prescribe, on the basis of such factors as the Secretary de-

termines to be appropriate, the number of \$1 coins that shall be issued with each of the designs selected for each year of the period referred to in paragraph (1).

“(5) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of \$1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

“(6) TERMINATION OF PROGRAM.—The issuance of coins under this subsection shall terminate when each President has been so honored, subject to paragraph (2)(E), and may not be resumed except by an Act of Congress.

“(7) REVERSION TO PRECEDING DESIGN.—Upon the termination of the issuance of coins under this subsection, the design of all \$1 coins shall revert to the the so-called ‘Sacagawea-design’ \$1 coins.”.

**SEC. 103. FIRST SPOUSE BULLION COIN PROGRAM.**

Section 5112 of title 31, United States Code, is amended by inserting after subsection (n) (as added by the preceding section of this title) the following new subsection:

“(o) FIRST SPOUSE BULLION COIN PROGRAM.—

“(1) IN GENERAL.—During the same period in which the \$1 coins are issued under subsection (n) which are emblematic of the Presidents of the United States, the Secretary of the Treasury shall issue bullion coins under this subsection that are emblematic of the spouse of each such President.

“(2) SPECIFICATIONS.—The coins issued under this subsection shall—

“(A) have the same diameter as the \$1 coins described in subsection (n);

“(B) weigh 0.5 ounce; and

“(C) contain 99.99 percent pure gold.

“(3) DESIGN REQUIREMENTS.—

“(A) COIN OBVERSE.—The design on the obverse of each coin issued under this subsection shall contain—

“(i) the name and likeness of a person who was a spouse of a President during the President's period of service;

“(ii) an inscription of the years during which such person was the spouse of a President during the President's period of service; and

“(iii) the number indicating the order of the period of service in which such President served.

“(B) COIN REVERSE.—The design on the reverse of each coin issued under this subsection shall bear—

“(i) images emblematic of the life and work of the First Spouse whose image is borne on the obverse; and

“(ii) the inscription ‘United States of America’.

“(C) DESIGNATED DENOMINATION.—Each coin issued under this subsection shall bear, on the reverse, an inscription of the nominal denomination of the coin which shall be ‘\$10’.

“(D) DESIGN IN CASE OF NO FIRST SPOUSE.—In the case of any President who served without a spouse—

“(i) the image on the obverse of the bullion coin corresponding to the \$1 coin relating to such President shall be an image emblematic of the concept of ‘Liberty’—

“(I) as represented on a United States coin issued during the period of service of such President; or

“(II) as represented, in the case of President Chester Alan Arthur, by a design incorporating the name and likeness of Alice Paul, a leading strategist in the suffrage movement, who was instrumental in gaining women the right to vote upon the adoption of the 19th amendment and thus participate in the election of future Presidents, and who was born on January 11, 1885, during the term of President Arthur; and

“(ii) the reverse of such bullion coin shall be of a design representative of themes of such President, except that in the case of the bullion coin referred to in clause (i)(II) the reverse of such coin shall be representative of the suffrage movement.

“(E) DESIGN AND COIN FOR EACH SPOUSE.—A separate coin shall be designed and issued under this section for each person who was the spouse of a President during any portion of a term of office of such President.

“(F) INSCRIPTIONS.—Each bullion coin issued under this subsection shall bear the inscription of the year of minting or issuance of the coin and such other inscriptions as the Secretary may determine to be appropriate.

“(4) SALE OF BULLION COINS.—Each bullion coin issued under this subsection shall be sold for an amount the Secretary of the Treasury determines to be appropriate that is equal to or greater than the sum of—

“(A) the face value of the coins; and  
 “(B) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

“(5) ISSUANCE OF COINS COMMEMORATING FIRST SPOUSES.—

“(A) IN GENERAL.—The bullion coins issued under this subsection with respect to any spouse of a President shall be issued on the same schedule as the \$1 coin issued under subsection (n) with respect to such President.

“(B) MAXIMUM NUMBER OF BULLION COINS FOR EACH DESIGN.—The Secretary shall—

“(i) prescribe, on the basis of such factors as the Secretary determines to be appropriate, the maximum number of bullion coins that shall be issued with each of the designs selected under this subsection; and

“(ii) announce, before the issuance of the bullion coins of each such design, the maximum number of bullion coins of that design that will be issued.

“(C) TERMINATION OF PROGRAM.—No bullion coin may be issued under this subsection after the termination, in accordance with subsection (n)(6), of the \$1 coin program established under subsection (n).

“(6) QUALITY OF COINS.—The bullion coins shall be issued in both proof and uncirculated qualities.

“(7) SOURCE OF GOLD BULLION.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the gold.

“(8) BRONZE MEDALS.—The Secretary may strike and sell bronze medals that bear the likeness of the bullion coins authorized under this subsection, at a price, size, and weight, and with such inscriptions, as the Secretary determines to be appropriate.”.

**SEC. 104. SENSE OF THE CONGRESS.**

It is the sense of the Congress that—

(1) the enactment of this Act will serve to increase the use of \$1 coins generally, which will increase the circulation of the so-called “Sacagawea-design” \$1 coins that have been and will continue to be minted and issued;

(2) the continued minting and issuance of the so-called “Sacagawea-design” \$1 coins will serve as a lasting tribute to the role of women and Native Americans in the history of the United States;

(3) while the American tradition of not issuing a coin with the image of a living person has served the country well and deserves to be continued as a general practice, in a series of coins commemorating former Presidents, all former Presidents should be so honored notwithstanding such tradition;

(4) the full circulation potential and cost-savings benefit projections for the \$1 coins are not likely to be achieved unless the coins are delivered in ways useful to ordinary commerce;

(5) in order for the circulation of \$1 coins to achieve maximum potential—

(A) the coins should be as attractive as possible; and

(B) the Director of the United States Mint should take all reasonable steps to ensure that all \$1 coins minted and issued remain tarnish-free for as long as possible without incurring undue expense;

(6) if the Secretary of the Treasury determines to include on any \$1 coin minted under section 5112(n) of title 31, United States Code (as added by section 102 of this Act) a mark denoting the United States Mint facility at which the coin was struck, such mark should be edge-incused;

(7) at such time as the Secretary of Treasury determines to be appropriate, and after consultation with the Board of Governors of the Federal Reserve System and the submission of notice to the Congress, the Secretary should declare to be obsolete any circulating \$1 coin that bears the design of the \$1 coins being issued immediately before the issuance of coins with the design referred to in section 5112(n)(7) of title 31, United States Code;

(8) in connection with the introduction of the \$1 coins under the Presidential \$1 Coin Program—

(A) the coins should not be introduced with an overly expensive taxpayer-funded public relations campaign; and

(B) the Director of the United States Mint, a bureau in the Department of the Treasury, should work with consumer groups, media outlets, and schools to ensure an adequate amount of news coverage about the start of the coin program so consumers will know of the availability of the coins;

(9) the Board of Governors of the Federal Reserve System and the Secretary of the Treasury should take steps to ensure that an adequate supply of \$1 coins are available for commerce and collectors at such places and in such quantities as are appropriate by—

(A) a meeting, from time to time but no less frequently than quarterly, with a coin users group that includes representatives of merchants who would benefit from the increased usage of \$1 coins, vending machine and other coin acceptor manufacturers, vending machine owners and operators, transit officials, municipal parking officials, depository institutions, coin and currency handlers, armored-car operators, car wash operators, and coin collectors and dealers to accurately gauge demand for coins and to anticipate and eliminate obstacles to the easy and efficient distribution and circulation of \$1 coins as well as all other circulating coins;

(B) submitting a semiannual report to the Congress containing an assessment of the remaining obstacles to the efficient and timely circulation of coins, and particularly \$1 coins, together with such recommendations for legislative action the Board and the Secretary may determine to be appropriate;

(C) consulting with industry representatives to encourage operators of vending machines and other automated coin-accepting devices in the United States to accept coins issued under the Presidential \$1 Coin Program and the so-called “Sacagawea-design” \$1 coins, and to include notices on the machines and devices of such acceptability;

(D) ensuring that during an introductory period, all institutions that want unmixed supplies of each newly-issued design of \$1 coins are able to obtain such unmixed supplies; and

(E) consulting with representatives of depository institutions and armored-car operators to support the availability of \$1 coins in packaging of sizes and types appropriate for and useful to ordinary commerce, including rolled coins; and

(10) the Director of the United States Mint should take all steps necessary to expand the marketplace for bullion coins, and reduce barriers to the sale of bullion coins, by ensuring that—

(A) the greatest number possible of reputable, reliable, and responsible dealers are qualified to offer for sale all bullion coins struck and issued by the United States Mint; and

(B) all such dealers and their customers have equal and timely access to all new issues of such bullion coins.

**TITLE II—ABRAHAM LINCOLN BICENTENNIAL 1-CENT COIN REDESIGN**

**SEC. 201. FINDINGS.**

The Congress finds as follows:

(1) Abraham Lincoln, the 16th President, was one of the Nation’s greatest leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation’s history.

(2) Born of humble roots in Hardin County (present-day LaRue County), Kentucky, on February 12, 1809, Abraham Lincoln rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

(3) With the belief that all men are created equal, Abraham Lincoln led the effort to free all slaves in the United States.

(4) Abraham Lincoln had a generous heart, with malice toward none and with charity for all.

(5) Abraham Lincoln gave the ultimate sacrifice for the country he loved, dying from an assassin’s bullet on April 15, 1865.

(6) All Americans could benefit from studying the life of Abraham Lincoln, for Lincoln’s life is a model for accomplishing the “American dream” through honesty, integrity, loyalty, and a lifetime of education.

(7) The year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln.

(8) Abraham Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the nation in Washington, D.C.

(9) The so-called “Lincoln cent” was introduced in 1909 on the 100th anniversary of Lincoln’s birth, making the obverse design the most enduring on the nation’s coinage.

(10) President Theodore Roosevelt was so impressed by the talent of Victor David Brenner that the sculptor was chosen to design the likeness of President Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier.

(11) In the nearly 100 years of production of the “Lincoln cent”, there have been only 2 designs on the reverse: the original, featuring 2 wheat-heads in memorial style enclosing mottoes, and the current representation of the Lincoln Memorial in Washington, D.C.

(12) On the occasion of the bicentennial of President Lincoln’s birth and the 100th anniversary of the production of the Lincoln cent, it is entirely fitting to issue a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of President Lincoln’s life.

**SEC. 202. REDESIGN OF LINCOLN CENT FOR 2009.**

(a) IN GENERAL.—During the year 2009, the Secretary of the Treasury shall issue 1-cent coins in accordance with the following design specifications:

(1) OBTVERSE.—The obverse of the 1-cent coin shall continue to bear the Victor David Brenner likeness of President Abraham Lincoln.

(2) REVERSE.—The reverse of the coins shall bear 4 different designs each representing a different aspect of the life of Abraham Lincoln, such as—

(A) his birth and early childhood in Kentucky;

(B) his formative years in Indiana;

(C) his professional life in Illinois; and

(D) his presidency, in Washington, D.C.

(b) ISSUANCE OF REDESIGNED LINCOLN CENTS IN 2009.—

(1) ORDER.—The 1-cent coins to which this section applies shall be issued with 1 of the 4 designs referred to in subsection (a)(2) beginning at the start of each calendar quarter of 2009.

(2) NUMBER.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of 1-cent coins that shall be issued with each of the designs selected for each calendar quarter of 2009.

(c) *DESIGN SELECTION.*—The designs for the coins specified in this section shall be chosen by the Secretary—

(1) after consultation with the Abraham Lincoln Bicentennial Commission and the Commission of Fine Arts; and

(2) after review by the Citizens Coinage Advisory Committee.

**SEC. 203. REDESIGN OF REVERSE OF 1-CENT COINS AFTER 2009.**

The design on the reverse of the 1-cent coins issued after December 31, 2009, shall bear an image emblematic of President Lincoln's preservation of the United States of America as a single and united country.

**SEC. 204. NUMISMATIC PENNIES WITH THE SAME METALLIC CONTENT AS THE 1909 PENNY.**

The Secretary of the Treasury shall issue 1-cent coins in 2009 with the exact metallic content as the 1-cent coin contained in 1909 in such number as the Secretary determines to be appropriate for numismatic purposes

**SEC. 205. SENSE OF THE CONGRESS.**

It is the sense of the Congress that the original Victor David Brenner design for the 1-cent coin was a dramatic departure from previous American coinage that should be reproduced, using the original form and relief of the likeness of Abraham Lincoln, on the 1-cent coins issued in 2009.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. 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 thereon.

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

There was no objection.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I am pleased that the House will consider today the Presidential \$1 Coin Act of 2005 I authored with the gentlewoman from New York (Mrs. MALONEY). This legislation honors each U.S. President by placing him on the obverse side of the \$1 coin on a rotating basis. By doing so it aims to improve circulation of the \$1 coin, which will lower costs to businesses and thus restrain price increases. I believe this program is a great opportunity for educating both children and adults about the history of our country. In addition, although it is not the goal of the program, these new coins will likely generate as much as \$5 billion for the government.

Concurrently with this program, the current Sacagawea coin will also be minted. I am pleased that we were able to work with the gentleman from North Dakota (Mr. POMEROY) to address his concerns and continue the Sacagawea program, which will now hopefully be stronger than ever.

In many ways this legislation is modeled after the successful "50 State Quarter Program." The 50 State Quarter Program, which I was also proud to

have authored, issues five quarters a year bearing images connected with one of the States, so that over a decade each State will have been honored. Before the State quarter program started, the U.S. Mint was making about 400 million quarters a year, but in the first year of the 50 State Quarter Program it minted approximately 1.2 billion quarters. The Mint estimates that one person in each household is collecting the quarters and they are collecting a full set, not just their own State. According to the most recent numbers from the Mint, nearly \$5 billion worth of savings have been created for the Federal Government.

It is important to note that this program is likely to be more accepted by the public than previous dollar coin programs. In a 2002 General Accounting Office report to Congress, 25 percent of respondents stated that they would use the dollar coin for more purchases if there was a rotating design similar to the 50 State Quarter Program. Additionally, nearly 50 percent of respondents stated they would collect the new coin if it featured a changing design. And 69 percent of respondents favored U.S. Presidents as the choice for the new rotating design on the dollar coin.

Under the program, the images on the front and back of the coin temporarily would be replaced beginning in 2007 with images of the United States Presidents. Four Presidents a year would be honored, in the order of their service, with a likeness of the President, his name and dates of service, and a number signifying the order in which he served, on the front of the coin. The image on the reverse would be that of the Statue of Liberty, large enough to be dramatic but not so large as to create a so-called "two-headed" coin. The date, Mint mark, and other important mottos on the coin would be on the edge of the coin, leaving room on the faces for more dramatic artwork.

Working through concerns, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Ohio (Mr. NEY) raised last year, there is language that was drafted in consultation with the National Federation of the Blind to ensure seeing-impaired individuals would be able to distinguish the dollar coin from a quarter.

The educational aspects of this program are obvious. We all know George Washington was the first President, but how many can tell the exact dates of his service to the country? How about the dates of service of the famous Civil War General Ulysses S. Grant, who later became President? And how many in this Chamber can name the only President who would end up with two coins in the series because he served twice, in terms separated by another President's term?

This legislation also seeks to honor the First Spouses by creating a nearly pure-gold investment-grade bullion coin, the same diameter as the dollar coin, and half an ounce in weight, hon-

oring the First Spouses who have done so much for our country. The U.S. Mint will also be able to make bronze medal replicas of the First Spouse gold bullion coin. This will enable school children and ordinary citizens an affordable option for collecting the First Spouse series. These bronze medal replicas will cost just a few dollars.

For the First Spouse coin, the obverse, as for the Presidential coins, would be the likeness of the spouse, terms of service, and the order in which they served. On the reverse would be images emblematic of the spouse's works. In the five instances to date in which Presidents had no spouses while in office, the educational part again, the bill calls for the image on the front of the coin to be that of an image, that of "Liberty," as used on a U.S. coin circulating that President's term, and the reverse of the coin to carry images related to the President's term.

□ 1545

During President Chester Arthur's term, the image of Liberty would be represented by Alice Paul, a leading figure in the women's suffrage movement, who was born during Arthur's term. Other Presidents, such as President Wilson, have had more than one spouse while in office due to the death of a spouse and subsequent remarriage while still in office.

Finally, this legislation includes H.R. 767 as a second title. This legislation, introduced by the gentleman from Illinois (Mr. LAHOOD) and the gentleman from Illinois (Mr. JACKSON) and cosponsored by the entire Illinois delegation, will redesign the Lincoln penny in 2009 in celebration of the 200th anniversary of President Lincoln's birth. The redesign will feature four designs, each representing a different aspect of his life: first, his birth and early childhood in Kentucky; second, his formative years in Indiana; third, his professional life in Illinois; and, finally, his Presidency in Washington, DC.

Mr. Speaker, I would like to thank the gentlewoman from New York (Mrs. MALONEY) for her work on this legislation, indeed there was a great deal of work, as well as the gentleman from Ohio (Chairman OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), for their support.

I urge my colleagues to support this fun and educational program.

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

Mrs. MALONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill that the gentleman from Delaware (Mr. CASTLE) and I have offered that is a win-win for taxpayers and the economy.

The Presidential Dollar Coin Act builds on the remarkable success of the 50 State Quarter Act of the gentleman from Delaware (Mr. CASTLE), which is well into its 10-year run and has earned

praise from educators and coin collectors and benefited the Treasury. My daughters, like many young people across America, enjoy collecting this popular coin.

Like the State quarter bill, the Presidential dollar coin will educate Americans about our Presidents and our first ladies while making money for the taxpayers. In addition, this bill will encourage use of the Sacagawea dollar coin, which will continue to be issued throughout the program and will be the sole U.S. dollar coin after the program ends. Thanks to discussions with the gentleman from North Dakota (Mr. POMEROY), Indian tribal chiefs and women's groups, the provisions of the bill relating to the Sacagawea dollar coin have been clarified and strengthened to assure that Sacagawea, the only woman on our currency at this present moment, will continue to be honored on the dollar coin.

In a similar vein, the bill also provides for commemorative coins honoring each first lady to be issued during the period that their husbands were President. These will be issued both as gold bullion collectors' items and also in a bronze version, making them more accessible to school children and the public.

I am particularly pleased that the bill provides for a coin to be issued in honor of the noted suffragette Alice Paul at the same time as the coin commemorating President Chester Arthur, who served without a spouse. As a New Yorker, I am particularly pleased that Lady Liberty, the international symbol of the United States, will be on the back of the coin.

The General Accounting Office has estimated that general use of dollar coins could save the government as much as \$500 million per year because they last longer than the dollar bill. Boosting usage of the dollar coin in everyday commerce also helps small businesses and provides consumers with faster and better service.

At the halfway point of issuance, the 50-State Quarter program had made the government over \$4 billion primarily from collectors taking the coins out of circulation so that the Federal Reserve then buys more from the Mint. We have similar expectations for the effect of individuals collecting the dollar coins.

This bill earns money for the government, benefits small businesses and consumers, educates all users of American currency about their Presidents and first ladies, and encourages wider use of the Sacagawea dollar coin. I would call that a bill that deserves our full support.

I particularly want to thank the gentleman from Delaware (Mr. CASTLE) for his work, not only on the quarter coin, which has been a huge success for our school children and our Nation and helped our economy, but his leadership and constant work on this bill, along with the gentleman from Ohio (Chairman OXLEY) and the ranking member,

the gentleman from Massachusetts (Mr. FRANK).

I particularly thank Joe Pinder of the committee staff, who is really an expert on coins and has put a great deal of time and effort on this, along with Emily Pfeiffer from the staff of the gentleman from Delaware (Mr. CASTLE) and Eleni Constantin, my financial services counsel.

Mr. Speaker, I hope that this will pass overwhelmingly and be circulating soon.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentlewoman for yielding me time, and I am rising today in support of H.R. 902. I congratulate the gentleman from Delaware and the gentlewoman from New York (Mrs. MALONEY) for having worked long and hard on this legislation.

In a Chamber where we find so much to fight about, you might think that a dollar coin commemorating former Presidents would be the ultimate no-brainer; but believe me, I had very deep troubles with this legislation. You see, I represent the State of North Dakota, home of Sacagawea, as we say in Hidatsa, Sacagawea as she is known in the Shoshone language. This coin, the Presidential coin, will come in addition to the existing dollar coin which bears the likeness of Sacagawea.

This occurs at a time when we are recognizing the 200th anniversary of the Lewis and Clark Expedition and commemorating, in accordance with that remembrance, the role Sacagawea had in this very important expedition.

The State of North Dakota feels very deeply about Sacagawea and about her role in U.S. history. We commemorated not long ago our second statue in Statuary Hall in Sacagawea's likeness. We were concerned that the move to the Presidential coin would somehow phase out the Sacagawea coin or relegate this one coin to history and obscurity. We thought that was not the time to do it, not in the bicentennial of the Lewis and Clark Expedition, not this coin that recognizes the contributions Native American people have made in our history, not the coin that recognizes the role women have played in the history of our country.

So with all of these concerns, I sat down and began my discussions with the gentleman from Delaware (Mr. CASTLE) and also many discussions with my friend, the gentlewoman from New York (Mrs. MALONEY).

I am very pleased to say that this was one experience where rather than just being rebuffed with "forget about your concerns, we have got the votes so we are going to run this," there was actual, very sincere listening to our concerns that Sacagawea continue in the coinage of our country. There were sincere efforts to address the issues that we were raising, and let me just cite a couple of them:

First, that the Presidential coins start at the conclusion of the bicenten-

nial observation of the Lewis and Clark Expedition. In addition, that any improvements to the coin to advance the Presidential coins would also be applied to the Sacagawea coin. Specifically, here we are talking about making a coin that will work in vending machines, that has the gold color, yet is not so subject to tarnishing as the existing rendition of the Sacagawea coin.

I think that the bill, as a result of the changes made by the constructive dialogue we were able to maintain, is a better bill; and I am just deeply grateful that on this issue, maybe not of great national importance to many, but of very real importance to me and the people I represent, you paid attention to our concerns, addressed them and came up with what I believe is an acceptable compromise. Maybe we can take this example and export it to other issues before us.

I am deeply grateful to the gentleman from Delaware (Mr. CASTLE). By golly, when the gentleman gets an idea, he just does not let it drop. I was hoping the gentleman would wear out on this one; but, no, he kept pushing, and here we are today and we are going to pass it and are going to pass it with my vote.

So I commend the gentleman from Delaware (Mr. CASTLE), I commend the gentlewoman from New York (Mrs. MALONEY), and I thank them once again for the opportunity to work with them on this legislation.

Mrs. MALONEY. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from North Dakota (Mr. POMEROY) for his constant work on this bill and his support. We are very grateful. I believe the gentleman's input has made it a stronger bill.

Mr. Speaker, I yield back my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

First, as a comment to the gentleman from North Dakota (Mr. POMEROY), he is tenacious, to say the least. We have been going through this with the gentlewoman from New York (Mrs. MALONEY) for a year, or something of that nature, addressing a variety of issues.

Obviously, none of us wanted to see the Sacagawea coin not come back or fail or whatever. It will be continued, and I think it is our mutual hope that this program will accelerate the usage of these coins, and therefore it is going to be a coin when it does come back in full-blown issuance after all the Presidential coins are gone that will be used a heck of a lot more than it is now. So hopefully it is a win-win situation that we ended up with.

I thank the gentleman. It was all amiable, maybe a little frustrating at times, but all amiable.

Mr. Speaker, I cannot thank my co-sponsor enough. She has also been tenacious in this, dealing with her side of the aisle when there were complications, smoothing those things over, plotting with me to get this done,

which we had to do from time to time. It has been a great pleasure to work with the gentlewoman from New York (Mrs. MALONEY) on this as well.

I would like to thank all the staff who worked on this legislation. It does seem like a relatively simple bill, but it is a little more complicated than one might think; and there was a lot of staff involvement. Obviously, Emily Pfeiffer on my staff I thank particularly, and Joe Pinder is truly an expert on coinage. I think he dreams about these coins and constantly he would come up with things I had not thought of, usually which we had to overcome in some way or another. But his institutional knowledge of coinage in the United States, which may not be exceeded in this country, is of extraordinary value to all of us as we deal with legislation such as that.

So we are pleased to be here. We think this is obviously very good legislation for a whole variety of reasons, every bit, hopefully, as good as the quarter legislation turned out to be.

Mr. OXLEY. Mr. Speaker, I rise today in strong support of H.R. 902, the "Presidential \$1 Coin Act of 2005," that the gentleman from Delaware, Mr. CASTLE, has written.

The dollar coin has the potential to save consumers and business billions of dollars if it is available for the niche population that has need of it. However, for number of reasons the so-called "golden" dollar coin never has achieved the success it should have when it was introduced in 2000. I think the Castle bill addresses all of those, creating a demand for the coin rather than trying to force it into circulation. I like the educational opportunities the coin presents, and I particularly like that the bill would put the Statue of Liberty on the reverse of the coin. Mr. CASTLE isn't going to say this, but I will: In 1997, when Congress approved the original Golden Dollar program, the legislation left the House with more than 400 votes to put the Statue of Liberty on the coin. Somehow, before it got to the President, that important symbol disappeared. Especially after 9/11, I think all of us believe that having Lady Liberty on our currency will be terrific.

Mr. Speaker, H.R. 902, introduced by Mr. CASTLE for himself and Mrs. MALONEY, seeks to improve demand for and thus circulation of the current one-dollar coin, with the intent of saving money for business and thus restraining price increases for consumers.

The legislation directs the Secretary of the Treasury to redesign the new "golden" one-dollar coin, beginning in 2007, issuing four different designs a year. Each design would depict the image and pertinent information about a President of the United States, in order of service, on the front. The reverse of the coin would depict an image of the Statue of Liberty.

Additionally, the legislation directs the Treasury Secretary to begin issuing, concurrently with the Presidential dollars, pure-gold "bullion" coins honoring and depicting the First Spouses. The bill also allows striking of an inexpensive bronze copy of the Spouse coin so that schoolchildren could collect affordable President-and-First Spouse sets, and proposes a number of methods to increase the circulation of the dollar coin.

Essentially similar legislation passed both subcommittee and full committee last year.

Changes to this version include moving the starting date back one year, to 2007, and explicit guarantees that the so-called "Sagagawea" design currently being minted and issued, will continue to be minted and issued during the life of the Presidential Dollar program, as well as becoming the sole design after the end of that program.

Finally the legislation incorporates as a separate title the text of H.R. 767, introduced by Mr. LAHOOD for himself and Mr. JACKSON, which calls for a temporary redesign of the reverse of the one-cent coin in 2009 honoring the bicentennial of the birth of President Abraham Lincoln.

With that, I urge unanimous support for H.R. 902.

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

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 902, 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. CASTLE. 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.

#### EXPANDED ACCESS TO FINANCIAL SERVICES ACT OF 2005

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 749) to amend the Federal Credit Union Act to provide expanded access for persons in the field of membership of a Federal credit union to money order, check cashing, and money transfer services, as amended.

The Clerk read as follows:

H.R. 749

*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 "Expanded Access to Financial Services Act of 2005".*

##### SEC. 2. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.

*Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:*

*"(12) in accordance with regulations prescribed by the Board—*

*"(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and*

*"(B) to cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee;"*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from California (Mr. SHERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. 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. 749, as amended.

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

There was no objection.

Mr. CASTLE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 749, the Expanded Access to Financial Services Act of 2005, introduced by the gentleman from Pennsylvania (Mr. GERLACH) and the gentleman from California (Mr. SHERMAN) and favorably reported to the House by the Committee on Financial Services.

This bill makes a simple change to the Federal Credit Union Act to allow Federal credit unions to offer check cashing and money transfer services to anyone within their field of membership. H.R. 749 will serve the dual purpose of lowering the cost to consumers of both check cashing and wire transfer products, while providing credit unions the opportunity to establish relationships with individuals who are currently unbanked.

Money transfers by individuals living and working in the U.S. to Latin America are currently estimated at \$10 billion annually, and should more than double by 2010.

□ 1600

As the remittance market continues to grow, there becomes a significant danger in depriving customers of low-cost remittance products, thereby driving them to underground service providers that evade regulatory oversight. H.R. 749 will allow credit unions to offer remittance products to individuals who qualify for membership while promoting greater transparency within the remittance market. This improved transparency will enhance the ability for regulators and law enforcement agencies to track wire transfers used for illegal activity. Increasing the ease with which regulators and law enforcement agencies can follow the money trail is consistent with the recommendations of the 9/11 Commission on Terrorist Financing.

Allowing Federal credit unions to offer products and services to all consumers within their field of membership would provide further benefits to our economy by allowing credit unions to establish relationships with individuals who are currently "unbanked." Many users of remittance services are recent immigrants and should be empowered with the knowledge and resources necessary to open personal accounts at mainstream financial institutions. Studies indicate that as many as 10 million American households do not have a bank account. Establishing and successfully managing a personal



account with an insured depository institution can lead to greater economic self-sufficiency and long-term financial security. Particularly for low- and moderate-income Americans, opening a checking or savings account can be an important first step in establishing a credit history, which can unlock doors to other financial opportunities.

I believe that this bill is a positive step toward ensuring that millions of unbanked Americans have access to secure, low-cost remittance products, while drawing these same customers into the regulated financial mainstream. I therefore encourage all of my colleagues to vote in favor of H.R. 749.

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

Mr. SHERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Delaware (Mr. CASTLE) summarized well the reasons for voting for this bill. If I had more forbearance, I would simply sit down, but I have a really nicely written speech here and will use a few minutes, hopefully abbreviating it, since so many of its points have already been covered.

Mr. Speaker, I will put into the RECORD at this point a letter in support of this bill from the National Association of Federal Credit Unions.

NATIONAL ASSOCIATION  
OF FEDERAL CREDIT UNIONS,  
Arlington, VA, April 26, 2005.

Hon. MIKE OXLEY,  
Chairman, House Committee on Financial Services,  
House of Representatives, Washington, DC.

Hon. BARNEY FRANK,  
Ranking Member, House Committee on Financial Services,  
House of Representatives,  
Washington, DC.

DEAR CHAIRMAN OXLEY AND RANKING MEMBER FRANK: On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association that exclusively represents the interests of our nation's federal credit unions, I want to reiterate our support for the Expanded Access to Financial Services Act of 2005 (H.R. 749) and urge the House to bring up and pass this key legislation.

NAFCU fully supports the merits of this bill, since abuses are rampant in communities where immigrants rely on money transfer companies to send remittances to family members and others in their country of origin. Unfortunately, money transfer companies oftentimes charge exorbitant fees on those sending remittances, while imposing poor exchange rates. For example, a \$1000 money transfer to Mexico via IRnet would cost \$10, while the same transaction via Western Union would cost between \$30 and \$50 depending on the Western Union location. Also, the credit union providing the transfer may be successful in converting an unbanked potential member into a member. In reality, and in far too many cases, the costs associated with sending such remittances is essentially nothing more than another form of predatory lending. Many people do not know that credit unions can provide a lower cost and better alternative to these predatory practices. As such, NAFCU is pleased that a number of our member credit unions currently offer remittance services to their members.

Last year, in testimony before the House Financial Services Subcommittee on Finan-

cial Services and Consumer Credit during a hearing on the issue of regulatory relief for credit unions on July 20, 2004, NAFCU Board Secretary and Xerox FCU President & CEO Bill Cheney testified:

"... NAFCU supports efforts to allow federal credit unions to offer check-cashing and money-transfer services to anyone within the credit union's field of membership. We believe this new authority, which would be discretionary and not mandatory, will allow credit unions to help combat abuses by non-traditional financial institutions that prey on our nation's immigrants and others who live and work in underserved communities."

That statement remains true today. The credit union industry continues to work on the front line to combat financial illiteracy and to teach consumers about sound financial practices. NAFCU believes that H.R. 749 is a good step forward in creating an alternative to those who have no choices in traditional financial services.

Thank you for allowing us this opportunity to share our support for H.R. 749. We hope that the House is able to bring up and take action on this legislation in a timely manner. If you or your staff have any questions regarding remittances abuses and how credit unions can be used to help address these problems, please do not hesitate to call on me or NAFCU's Director of Legislative Affairs, Brad Thaler.

Sincerely,

FRED R. BECKER, Jr.,  
President and CEO.

Mr. Speaker, H.R. 749 would allow credit unions to provide lifeline services; that is to say international remittances, wire transfers, and check-cashing services to nonmembers who are within the credit union's field of membership. Now, a credit union is restricted and serves a restricted number of people. Some credit unions are based on employment, and so you may have a credit union that serves the textile workers of Los Angeles. You might have another credit union geographically based that serves the northeast San Fernando Valley. This bill only allows a credit union to serve those who are within its field of membership, who are eligible to become members of a credit union. And it makes good sense to allow those who fit within the field of membership, but are not yet members of the credit union, to get these lifeline services. These lifeline services are often priced very high, whether it be check-cashing on the one hand, or international remittances on the other. And to instead provide additional competition so that credit unions can bring the price of these services down would be very helpful to those at the very bottom of our economic ladder.

As the gentleman from Delaware points out, it also brings people who do not have a relationship with a financial institution into a financial institution. It gives them a chance to move from nonmembers who are making use of the check cashing and remittance services, to members who have a checking account, and then gradually a savings account, a credit history, and a real piece of the American financial pie, if you will; a chance to participate with all of the services that the financial institutions of this country provide.

Now, consumers who are sending remittances now, sometimes they are

paying as much as 15 percent of the amount that they plan to send. So if you are sending \$300 back to your parents in Mexico, you may spend \$45, and this bill will provide additional competition in the international remittance area, where many credit unions providing services to those who are already members often provide these services for only \$14 or less per transaction. By bringing people into credit unions, credit unions can do what they do best, and that is serve those who are within their field of membership and begin the process of providing financial education, combating predatory lending, and bringing people into the financial system.

Today, more than 200 credit unions already provide to their members wire transfer services to almost 650 points of service in 40 countries. So the credit unions are well positioned to provide these wire transfer and international remittance services.

In 2003, the Credit Union National Association adopted a group of principles designed to guide their members when providing these international remittance services. They basically say that credit unions should disclose the cost of the transaction in their advertising and brochures and in dealings with the customer, that the credit unions will provide current exchange rate information before conducting the transaction; that they will tell the customer the exact amount of foreign currency to be received by the recipient; and they will tell the sender when the funds will be available to the recipient. These kinds of high principles are important for those in the international remittance business, and to have credit unions more involved in that business and subject to those principles is an important step forward.

As the gentleman from Delaware pointed out, the size of the international remittance business is quite large. In fact, it is estimated at least at \$10 billion annually. It is expected to double by the end of this decade, and there are some estimates that place it well above \$10 billion annually now.

I should also mention that nearly half of the Latinos in this country do not have an account with a mainstream financial institution, and that is why it is so important in dealing with that immigrant community, as well as other immigrant communities from elsewhere in the world, that we provide this opportunity for credit unions to provide international remittance services.

I should also take a moment to recognize the work of the gentleman from Illinois (Mr. GUTIERREZ) who has been the leader in dealing with all of the various aspects of the remittance, international remittance issues, and to recognize my friend, the gentleman from the Inland Empire (Mr. BACA) who provided a clarifying and perfecting amendment to this legislation. I believe that this legislation will help credit unions provide services to those

who need them, will drive down the price of those services, and will introduce people to our financial institutions. I urge an aye vote.

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

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from the Commonwealth of Pennsylvania (Mr. GERLACH).

Mr. GERLACH. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Ohio (Mr. OXLEY) for taking up this bill so quickly, and the gentleman from California (Mr. SHERMAN) for his work on behalf of this important legislation. I would also like to thank the gentleman from California (Mr. BACA), the gentleman from Illinois (Mr. GUTIERREZ), the gentleman from Pennsylvania (Mr. KANJORSKI), the gentleman from Ohio (Mr. LATOURETTE), and the gentleman from Texas (Mr. PAUL) for their efforts as well.

Mr. Speaker, I rise today to encourage my colleagues to support H.R. 749, the Expanded Access to Financial Services Act. This bipartisan legislation will amend the Federal Credit Union Act to allow credit unions to offer money order, check cashing, and wire transfer services to anyone who is eligible to be a credit union member, whether or not they have credit union membership. The bill is identical to section 307 of H.R. 1375, the Financial Services Regulatory Relief Act, which passed the House by a vote of 392 to 25 on March 18, 2004.

H.R. 748 reaches out to individuals who, for whatever reason, do not have established bank accounts. These unbanked Americans, estimated to be up to 10 million households, are frequently charged high fees for a variety of financial services. By bringing competition to the marketplace, we can provide our constituents access to lower-fee alternatives.

Many of those who would utilize these services are hardworking immigrants trying to wire money home to help provide for their families. According to the Pew Hispanic Center and Multilateral Investment Fund, \$10 million is sent back to Latin America each year, a figure that can more than double in the next 5 years.

It is my hope that the underserved persons who are reached by this bill will be able to use these services to establish a credit history that can then allow them to take advantage of other financial services. An initial positive experience with a depository institution may encourage the "unbanked" to explore other financial products.

Further, bringing immigrant workers into financial institutions is important for national security. Credit unions are required to follow the recordkeeping and reporting requirements of the Bank Secrecy Act. They must also determine that customers are in the field of membership, a process that would involve personal documentation review. Having international money

transfers go through regulated financial institutions makes it easier for law enforcement officials to learn of and follow suspicious activity.

This legislation has the support of the National Credit Union Administration, the Credit Union National Association, and National Association of Federal Credit Unions.

H.R. 749 is a good, bipartisan bill. It reaches out to communities that have historically been left out of the financial services arena and encourages hardworking Americans to develop relationships with financial institutions. I hope the Members will choose today to give their constituents access to affordable financial services.

Mr. BACA. Mr. Speaker, I rise in strong support of H.R. 749, the Expanded Financial Services Act of 2005.

This legislation will allow credit unions to offer services to individuals who are in their field of membership, not just those who are members.

This bill will open up the marketplace, and will provide lower-cost services to underserved individuals. The result will be that thousands of unbanked households will be able to enter the economic mainstream.

H.R. 749 includes a provision that I introduced in the Financial Services Committee that will allow these individuals to use credit unions to send international and domestic electronic fund transfers.

This provision will help underserved individuals to send and receive funds to and from their families.

Currently there are about 10 million households in the United States that do not have access to banking. This bill will help those individuals by giving them lower-cost financial alternatives to send funds to their families.

H.R. 749 will promote competition in the money transfer industry, resulting in lower fees to consumers.

By allowing credit unions to compete, we will bring huge savings to individuals transferring money and provide more money for those who need it most. The money people save by using credit unions can be reinvested in our economy, which helps all Americans.

I urge my colleagues to vote yes on H.R. 749, so that thousands of underserved Americans can join the financial mainstream and access the American dream.

Mr. CASE. Mr. Speaker, I rise today in strong support of H.R. 749, the Expanded Access to Financial Services Act of 2005. I do so as the proud representative of Hawai'i's Second District, in which our nation's credit unions have a long and rich history, and as one of my Hawai'i's 742,000 credit union members.

H.R. 749 will allow credit unions to provide expanded services to both members and non-members otherwise eligible for membership. These expanded services include the issuance of travelers' checks and money orders, and electronic funds transfers.

Most specifically, this bill, if signed into law, will in part enable many more of our citizens to transfer money overseas to family members and others with greater ease, thereby assisting our personal and financial interests. For it is a fact that our country is facing its highest level of immigration since the Depression era, with over 28.4 million foreign-born individuals residing in the United States.

My Hawai'i is no exception. According to the most recent Census Bureau's American Community Survey, Hawai'i, with 17.9 percent, has the fourth-largest percentage of foreign-born residents in the United States.

An overwhelming majority of Hawai'i's foreign-born population is from Asia. According to the Susannah Wesley Community Center, a private, nonprofit agency contracted by the State of Hawai'i to provide immigrant services, Hawai'i's largest immigrant population—fifty percent of all incoming immigrants—hails from the Philippines. It is crucial to these populations and others that our financial institutions provide quick, efficient, and economical means by which monies may be transferred to their countries of origin and elsewhere.

Unfortunately, our nation's financial infrastructure has been slow to offer such services, especially in the less urbanized and rural parts of our country such as my district where our credit unions have long filled an important community-based financial services function. As a result, there is a growing population of "unbanked" individuals, particularly immigrants, and a costly and inefficient money transfer process.

The World Council of Credit Unions, along with the Credit Union National Association, offer credit unions a remittance product called the International Remittance Network (IRnet). IRnet is an electronic funds transfer service providing credit union members a safe and inexpensive way to send money overseas and domestically, and provides service to over 40 countries in Latin America, Asia, Africa and Europe, including the Philippines, Mexico, and Australia.

IRnet significantly decreases the costs for individuals to transfer funds overseas. Over the past four years, the advent of IRnet and enhanced competition among our financial institutions offering money transfer services has driven down remittance costs for consumers. The average cost today of sending \$300 to Mexico is between \$13 and \$14, or 4–5 percent of the amount sent, compared to the average cost four years ago, which was between \$30 and \$32, or 10–11 percent.

This legislation will expand the range and number of people eligible for the use of IRnet and thereby lower the costs paid by the consumer for these services through increased competition within the marketplace. In the process, it will also encourage a larger number of our newly-arrived citizens and residents to utilize our credit unions and other financial services.

H.R. 749 will not harm or otherwise risk our country's financial or monetary security, as IRnet utilizes real-time monitoring of transactions against the Specially Designated Names, SDN, list from the Office of Foreign Asset Control. What this bill will do again is to help more people in our communities with more and better ways to provide for their personal and economic needs and obligations overseas while preserving basic homeland security protections.

Mr. Speaker, I commend my colleague from Pennsylvania, Mr. GERLACH, for introducing this bill. I look forward to working with him and our nation's invaluable credit unions to see this measure through into law.

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

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

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 749, 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.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE TWO-YEAR ANNIVERSARY OF THE HUMAN RIGHTS CRACKDOWN IN CUBA

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 81) expressing the sense of Congress regarding the two-year anniversary of the human rights crackdown in Cuba.

The Clerk read as follows:

H. CON. RES. 81

Whereas in March 2003, Cuban dictator Fidel Castro arrested more than 75 journalists, labor union organizers, civic leaders, librarians, and human rights activists as political prisoners;

Whereas the Cuban regime, after summary trials which were denounced by the international community, sentenced these innocent men and women to a total of more than 1,000 years in prison for trying to exercise their civil and political rights, many of whom are anticipated to die in prison before their sentence is completed;

Whereas the Charter of the United Nations reaffirms a commitment to fundamental human rights and to the dignity and worth of all people;

Whereas the Universal Declaration of Human Rights, which establishes global human rights standards, asserts that all human beings are born free and equal in dignity and rights, and that no one shall be subjected to arbitrary arrest or detention;

Whereas these arrests and convictions were an atrocious attempt by the Cuban regime to crush the citizens' movements for a free and democratic Cuba;

Whereas Fidel Castro has tentatively released a limited number of prisoners from jail but these political activists are subject to arrest and imprisonment at any time pursuant to "extra penal licenses";

Whereas in 2004, the Cuban regime continued its suppression of democracy and repression of human rights activists, imprisoning a significant number of political dissidents during the year on such charges as disrespect for authority, public disorder, disobedience, and resisting arrest;

Whereas in April 2004, the United Nations Commission on Human Rights adopted a resolution deploring the sentencing of "political dissidents and journalists" in 2003 and calling for a visit to Cuba by a Personal Representative of the High Commissioner for Human Rights which was later denied by the Cuban regime;

Whereas Fidel Castro continues to hold hundreds of political prisoners in his jail cells;

Whereas Amnesty International has recognized all journalists and activists who were arrested in the crackdown in March 2003 as prisoners of conscience;

Whereas the Cuban regime engages in torture and other cruel, inhumane, and degrad-

ing treatment and punishment against political prisoners to force them into submission, including intense beatings, extended periods of solitary confinement, and denial of nutritional and medical attention, according to the Department of State's Country Report on Human Rights 2004;

Whereas religious freedom in Cuba is severely circumscribed, and clergy and lay people suffer sustained persecution by the Cuban State Security apparatus;

Whereas the Cuban regime denies the people of Cuba equal protection under the law, disallows them recourse for remedying violations of human rights and civil liberties, and instead enforces a judicial system which infringes upon fundamental rights; and

Whereas the United States Congress has stood, consistently, on the side of the Cuban people and supported their right to be free: Now, therefore, be it

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

(1) condemns in the strongest possible terms the arrest of more than 75 journalists, labor union organizers, civic leaders, librarians, and human rights activists as political prisoners in March 2003 and the Cuban regime's continuing repressive crackdown against the brave internal opposition and the independent press;

(2) expresses its profound admiration and firm solidarity with the internal opposition and independent press of Cuba;

(3) demands that the Cuban regime immediately release all political prisoners, legalize all political parties, labor unions, and the press, and hold free and fair elections;

(4) declares the acts of the Cuban regime, including its widespread and systematic violation of human rights, to be in violation of the Charter of the United Nations and the Universal Declaration of Human Rights;

(5) declares that the rule of law should replace the rule of force so that the fundamental and inalienable rights of every individual in Cuba are protected;

(6) calls for the European Union, as well as other countries and international organizations, to continue to pressure the Cuban regime to improve its human rights record; and

(7) calls for United Nations member countries to vote against the Cuban regime's membership in the United Nations Commission on Human Rights and the passage of a resolution at the 61st session of the United Nations Commission on Human Rights that holds the Cuban regime accountable for its gross violations of human rights and civil liberties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 years ago, with the world's attention riveted on Iraq, Fidel Castro ordered his feared state security apparatus to round up at least 75 of Cuba's best and bravest and brightest, prominent and even lesser-known dissidents. Among these are 28 independent journalists and 40 Varela project workers. With sickening speed, these men and women were paraded before kangaroo courts and given prison sentences ranging from 6 to 28 years; 61 remain in prison.

When the Committee on International Relations met on April 16, 2003 to decry this vile abrogation of justice, I stated at that time that "Even some of the most outspoken leftists who once saw in Fidel Castro something to admire now admit that Castro's unbridled cruelty, his thirst for blood, and extreme paranoia are indefensible." I regret to report that Castro has not given me and, frankly, he has given no one else as well, any reason to reassess that statement or those sentiments.

What were the so-called crimes that these brave men and women committed? They were advocating democracy, writing as independent journalists, and being men and women of faith.

Their real offense was to dare to question the authority of a single man: Fidel Castro. The Cuban Revolution is really about Castro's vanity and pursuit of personal power. From the beginning, Castro has shot and jailed anyone, even close friends, who have dared to get in the way of his personal ambitions.

Dictatorships, reflecting the whims of a despot, always subject their people to deprivations and absurdities. The Castro regime recently let a handful of its political prisoners out on parole, citing health reasons. The regime's callousness toward ailing political prisoners is well documented.

Now, independent Cuban journalists are reporting that Cuba's prisons have been virtually emptied of medical personnel. Why? Mr. Castro decided to send them to Venezuela and other places to advance his personal expansionist agenda.

Mr. Speaker, writing in the Spanish newspaper, *El Pais*, Nobel Prize winner Jose Saramago, a Portuguese Communist and close friend of Castro, commented after 3 alleged Havana ferry hijackers were killed by a firing squad in Cuba in May of 2003, "Cuba has won no heroic victory by executing these three men, but it has lost my confidence, damaged my hopes, and robbed me of illusions."

□ 1615

Illusions, as Castro-lover Jose Saramago has only now begun to acknowledge, often persist despite overwhelming evidence to the contrary. Nowhere has this been more evident than in the case of Castro's Cuba.

Despite decades of credible reports of widespread egregious violations of human rights, including the pervasive use of torture and vicious beatings of political prisoners by the Cuban Government, some have clung to indefensibly foolish illusions of Castro's revolution.

Despite the fact that the Cuban Government systematically denies its people freedom of speech, press freedom, assembly and association, and severely restricts workers' rights, including the right to form independent trade unions, some have nevertheless clung to illusion.

Despite the fact that Cuba and Castro maintain an unimaginably vast network of surveillance by the thugs in his secret police and the committees for the defense of the revolution, or CDRs, neighbors spying on neighbors, some continue to embrace bogus perceptions, illusions about Castro and about Cuba.

In his book "Against All Hope," the book that I have actually read twice now, a memoir of life in Castro's gulags, Armando Valladares, a courageous and amazing man who spent 22 years in Cuban prisons wrote: "The government of Cuba and its defenders of the Cuban revolution denied that the incidents that I recount in the book ever happened." He says, "Castro sympathizers who were more subtle said the incidents that he described were exaggerations. And there were others, well meaning who simply could not bring themselves to believe that such horrors, crimes and torture existed in the political prisons of Cuba.

"My response," Armando Valladares goes on to say, "to those who still try to justify Castro's tyranny with the excuse that he built schools and hospitals, is this: Stalin and Hitler and Pinochet all built schools and hospitals, and like Castro, they all tortured and assassinated opponents. They built concentration and extermination camps and eradicated all liberties, committing the worst crimes against humanity."

Armando Valladares goes on to say: "Unbelievably while many NGOs like Amnesty International and America's Watch have denounced the human rights situation in Cuba, there has been a continuing love affair on the part of the media and many intellectuals with Fidel Castro."

Mr. Speaker, that love affair, that illusion seemed to crash and burn with the onset of the current crackdown on dissidents. The EU for its part took action in June of 2003 by limiting high-level EU governmental visits and inviting Cuban dissidents to National Day celebrations. But, sadly, their memories are short. In January of this year, at the initiative of the Spanish Government, the EU temporarily suspended these measures for a 6-month period.

Mr. Speaker, at the 61st session of the U.N. Commission on Human Rights in Geneva, which was held this past month, the United States, I am very proud to say the United States offered a resolution on the human rights situation in Cuba. The resolution recalled the resolutions of the previous 15 years; and I would just say, parenthetically, I was there 15 years ago when Armando Valladares led the U.S. delegation, having been sent out of the government or out of Cuba by Castro, and got that body, which is dysfunctional in many ways, to finally focus on these ongoing and persistent violations of human rights in Cuba, and that was the first time.

I am glad to say that we just, at U.S. insistence, were able to get another

statement by the U.N. Commission on Human Rights focused on the ongoing abuses by Cuba. The resolution passed by a vote of 21 to 17 with 15 abstentions, but only after a full court press by the U.S. delegation led by Rudy Boschwitz, which included personal pleas from President Bush to the presidents of Ukraine and Mexico.

I am sad to point out that China, Congo, Cuba, Egypt, Eritrea, Ethiopia, Guinea, India, Indonesia, Kenya, Malaysia, Nigeria, Qatar, Russia, South Africa, Sudan and Zimbabwe all voted against the resolution, in effect putting their stamp of approval on Castro's actions.

Let me just say finally, Mr. Speaker, that this resolution we have today is a reiteration. It is a bipartisan resolution offered by my friend and colleague from New Jersey (Mr. MENENDEZ). And I hope that every member will vote in favor of it.

Two years ago, with the world's attention riveted on Iraq, Fidel Castro ordered his feared State Security apparatus to round up at least 75 of Cuba's bravest and brightest, prominent and lesser-known dissidents. Among these are 28 independent journalists and 40 Varela project workers. With sickening speed, these men and women were paraded before kangaroo courts and given prison sentences ranging from 6 to 28 years. Sixty-one remain in jail.

When the Committee on International Relations met April 16, 2003 to decry this vile abrogation of justice, I stated at that time: "Even some of the most outspoken leftists, who once saw in Fidel Castro something to admire, now admit that Castro's unbridled cruelty, thirst for blood and extreme paranoia are indefensible."

I regret to report that Castro has given me no cause to reassess that statement.

What were the so-called crimes of these brave men and women? Advocating democracy . . . writing as independent journalists . . . being men and women of faith.

Their real offense was to dare to question the authority of a single man, Mr. Castro. The Cuban Revolution is really about Castro's vanity and pursuit of personal power. From the beginning, Castro has shot and jailed anyone—even his close friends—who has dared get in the way of his personal ambition.

Dictatorships, reflecting the whims of a despot, always subject their people to deprivations and absurdities. The Castro regime recently let a handful of its political prisoners out on "parole," citing health reasons. The regime's callousness towards ailing political prisoners is well documented.

Now, independent Cuban journalists are reporting that Cuba's prisons have been virtually emptied of medical personnel. Why? Mr. Castro decided to send them to Venezuela and other places to advance his personal expansionist agenda.

Writing in the Spanish newspaper, *El Pais*, Noble prize winner Jose Saramago, a Portuguese communist and close friend of Castro commented after three alleged Havana ferry hijackers were killed by firing squad in Cuba in May 2003, "Cuba has won no heroic victory by executing these three men, but it has lost my confidence, damaged my hopes and robbed me of illusions."

Illusions, as Castro lover Jose Saramago has only now begun to acknowledge, often

persist despite overwhelming evidence to the contrary.

Nowhere has this been more evident than in the case of Castro's Cuba.

Despite decades of credible reports of widespread egregious violations of human rights, including the pervasive use of torture and vicious beatings of political prisoners by the Cuban government, some have clung to indefensibly foolish illusions of Castro's revolution.

Despite the fact that the Cuban government systematically denies its people the freedoms of speech, press, assembly, and association, and severely restricts workers' rights, including the right to form independent trade unions, some have, nevertheless, clung to illusion.

Despite the fact that Castro maintains an unimaginably vast network of surveillance by the thugs in his secret police and Committees for the Defense of the Revolution (CDRs)—neighbors spying on neighbors—some continue to embrace bogus perceptions—illusions about Cuba.

In his book, "Against All Hope, a Memoir of Life in Castro's Gulags" Armando Valladares, a courageous and amazing man who spent 22 years in Cuban prisons wrote:

The government of Cuba and defenders of the Cuban Revolution denied that incidents that I recount (in the book) ever happened. Castro sympathizers, who were more subtle, said the incidents I described were exaggerations. And there were others, well meaning, who simply could not bring themselves to believe that such horrors, crimes and torture existed in the political prisons of Cuba.

My response to those who still try to justify Castro's tyranny with the excuse that he has built schools and hospitals is this: Stalin, Hitler and Pinochet also built schools and hospitals, and like Castro, they also tortured and assassinated opponents. They built concentration and extermination camps and eradicated all liberties, committing the worst crimes against humanity.

Unbelievably, while many non-governmental organizations like Amnesty International and America's Watch have denounced the human rights situation in Cuba, there has been a continuing love affair on the part of the media and many intellectuals with Fidel Castro.

That love affair—that illusion—seemed to crash and burn with the onset of the current crackdown on dissidents. The EU took action in June 2003 by limiting high-level EU governmental visits and inviting Cuban dissidents to national day celebrations. But their memories are short. In January of this year, at the initiative of the Spanish government, the EU temporarily suspended these measures for a six-month period.

At the 61st session of the United Nations Commission on Human Rights in Geneva this past month, the United States offered a resolution on the human rights situation in Cuba. The resolution recalled the resolutions of the previous 15 years which the Commission had passed on Cuba, and asked that the mandate of the Personal Representative of the High Commissioner be continued. The resolution passed by a vote of 21–17, with 15 abstentions, but only after a fullcourt lobbying press by the U.S. delegation which included personal pleas from President Bush to the Presidents of Ukraine and Mexico. China, Congo, Cuba, Egypt, Eritrea, Ethiopia, Guinea, India, Indonesia, Kenya, Malaysia, Nigeria, Qatar, Russia, South Africa, Sudan and Zimbabwe all voted against the resolution, in effect putting their stamp of approval on Castro's actions.

Let me mention a few of the ones who were summarily sentenced and remain in prison. Omar Rodriguez Saludes, an independent journalist known to ride his bicycle to news conferences: 27 years. Hector Palacios, one of the key figures promoting the Varela Project: 25 years. Oscar Espinosa Chepe, who wrote critical articles about the Cuban economy for the Internet: 25 years. The President of the Independent United Confederation of Cuban Workers (CUTC), Pedro Pablo Alvarez, 25 years. Journalist Raul Rivero and Ricardo Gonzalez Afonso, an editor at "De Cuba" magazine, each got 20 years. The list goes on and on.

For its part, the Bush Administration has made its deep and abiding concern for the political prisoners and the protection of elemental human rights in Cuba abundantly clear. At the time of the crackdown, former Secretary of State Colin Powell declared:

In recent days the Cuban government has undertaken the most significant act of political repression in decades. We call on Castro to end this despicable repression and free these prisoners of conscience. The United States and the international community will be unrelenting in our insistence that Cubans who seek peaceful change be permitted to do so.

In like manner, the Congress has consistently demanded the immediate release of all the prisoners and support of the right of the Cuban people to exercise fundamental political and civil liberties. H. Res. 179, a resolution offered by Congresswoman ROS-LEHTINEN in April 2003, passed by a vote of 414-0, 11 present. In April of 2001, I sponsored a resolution, H. Res. 91, calling on the U.N. Human Rights Commission in Geneva to condemn Cuba's human rights abuse and appoint a Special Rapporteur for Cuba. While it passed, there were a disturbing number of negative votes. That vote was 347-44 with 22 voting present.

We have another opportunity today to move forward a resolution offered by my Colleague, Mr. MENENDEZ, to show that these prisoners are not forgotten. Fidel Castro, his brother Raul, and numerous leaders of Cuba's dictatorship, are directly responsible for crimes against humanity past—and present. Some day these oppressors will be held to account and the people of Cuba will live in freedom.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I might consume. Mr. Speaker, I rise in strong support of this resolution. Let me first thank my colleague, the distinguished chairman of the International Relations Committee, the gentleman from Illinois (Mr. HYDE), for facilitating our body's consideration of the resolution so expeditiously. And let me thank my two friends on the other side, the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from Florida (Ms. ROS-LEHTINEN), for their indefatigable fight for all human rights issues globally. I also want to thank my friend, the ranking Democratic member of the Western Hemisphere Subcommittee, the gentleman from New Jersey (Mr. MENENDEZ), for his ongoing battle for human rights in Cuba.

Mr. Speaker, it is inexcusable that 2 years after 75 Cuban lovers of freedom

were tried in kangaroo courts in Havana, sentenced to prison terms ranging from 6 to 28 years for a total prison term of a thousand years and imprisoned in rat-infested dank cells, Castro's totalitarian machine is still trying to crack the backs of that Caribbean island's internal opposition by continuing to lock up some of its most distinguished civic and human rights leaders.

These political prisoners, Mr. Speaker, are suffering unspeakable horrors at the hands of Cuban police agents simply because they dare to articulate their disagreement with Castro's Communist government; because they dared to share their personal book collections with their friends and neighbors; because they dared to advocate for labor unions; and because they refused to compromise their journalistic integrity.

These soldiers of freedom, Mr. Speaker, who stand shoulder to shoulder in spirit with the likes of Poland's Lech Walesa and the Czech Republic's Vaclav Havel, were thrown behind bars because they practiced their professions or attempted to exert their political rights and civil liberties without the blessings of Castro's oppressive regime.

Many of those arrested were supporters of the so-called Varela Project, a grassroots, nonviolent citizens' movement in Cuba that seeks fundamental political change on the island by petitioning the Cuban Government for a referendum on reform.

Mr. Speaker, it is painfully clear that Castro still does not grasp what has become obvious to many leaders of isolated countries, that the ideological contest between democratic liberty and totalitarian suppression was won over a decade ago. There is no question today, as there was during World War II or throughout the long years of the Cold War, that systems and individuals who seek to repress and terrorize their people ultimately will not prevail.

It is only a matter of time before the Communist government of Cuba will realize that the choice before it is not whether the cronies of Castro will be able to maintain power, for the answer to that question is a clear and resounding no; but rather whether they want to participate constructively in a process that will surely transition Cuba to a future of freedom, democracy, and economic opportunity for all.

Mr. Speaker, recently, the Subcommittee on the Western Hemisphere convened a remarkable hearing at which members of the internal opposition spoke via telephone from Havana, despite placing themselves at risk of state persecution. These courageous political dissidents forcefully argued that we in Congress should call upon the international community to denounce Cuba's human rights record at every opportunity.

Mr. Speaker, here in this House we may disagree on how best to bring about change in Cuba. But we stand to-

gether in steadfast solidarity with those who endure the depths of human depravity solely because they strive each day to loosen the shackles of communist repression for themselves and their fellow countrymen and women.

I strongly urge my colleagues to support H. Con. Res. 81, and I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I am greatly humbled to follow such internationally recognized human rights leaders as the distinguished gentleman from California (Mr. LANTOS), my good friend, and my equally wonderful friend, the gentleman from New Jersey (Mr. SMITH). I am honored to be in their presence.

And we stand here today, Mr. Speaker, 2 years after a cruel, despotic, and vicious act by one of the most cowardly and evil men in the world, Fidel Castro, the unlawful arrest of over 70 peaceful dissidents on the island of Cuba.

The arrest of these innocent men and women are promulgated by a culture of fear, Mr. Speaker, one that has banned libraries, one that has banned books, one that maintains a system of remote and unmonitored gulags for prisoners of conscience, one that forbids independent labor unions, one that causes the systematic mistreatment of religious believers, one that mandates the summary execution of independent journalists and conscientious objectors.

This important resolution before us demands that the Cuban regime release all political prisoners, legalize all political parties, labor unions and the press, and hold free elections. In other words, to be afforded their basic freedoms.

Further, it calls for the European Union, as well as other countries and international organizations, to pressure the Cuban regime to improve its deplorable human rights record.

As we convene in this great Hall of democracy, many in Cuba continue to be dragged down stairs, strapped to chairs and beaten for wanting one thing and one thing only, freedom, and with that, the freedom to express their thoughts and their ability to exercise their basic universally held human rights.

In passing this legislation, Mr. Speaker, we are once again in the Congress reaffirming our commitment to the brave people of the island of Cuba, especially those 75 men and women who were cruelly arrested for advocating peacefully in favor of freedom, democracy, and respect for human rights.

I commend my good friend, the gentleman from New Jersey (Mr. MENENDEZ), as well as the gentleman from California (Mr. LANTOS) and the gentleman from New Jersey (Mr. SMITH),

for this bill, and wholeheartedly support this legislation. And I ask my colleagues to vote in favor of it today.

Mr. ANDREWS. Mr. Speaker, I rise today in strong support of H. Con. Res. 81, a resolution which condemns the crackdown on political dissidents that was orchestrated by the regime of Fidel Castro two years ago. Through this remarkable violation of human rights, the Cuban government arrested more than 75 journalists, labor union organizers, civic leaders, librarians, and human rights activists, and took them as political prisoners. On this occasion, it is important that we keep in mind the struggle in which our brothers and sisters in Cuba continued to be engaged—that is, the struggle for freedom and true democracy.

One of the many dissenters arrested in March 2003 was Mr. Jose Daniel Ferrer Garcia, a pro-democracy activist in Cuba who has been jailed for his outspoken leadership in the Cuban democracy movement. Mr. Garcia is the regional coordinator for the Christian Liberation Movement in Santiago Province. Through this leadership position, he has mobilized many Cuban youth for democratic change, and has focused on accomplishing the movement's chief objective: to unite citizens that are willing to defend and promote human rights and achieve changes in the Cuban society through peaceful means. Because of the efforts of determined individuals such as Mr. Garcia, the struggle for democracy in Cuba continues, and we should keep this in mind when considering any potential changes in United States policy towards Castro's regime.

Mr. Speaker, I ask that all of my colleagues in the House of Representatives join me in supporting H. Con. Res. 81, and continue to voice their solidarity with Mr. Garcia and all other pro-democracy activists in Cuba as they continue their push for true freedom.

Mr. MENENDEZ. Mr. Speaker. A todos mis hermanos y hermanas quienes sufren en las cárceles de Castro bajo su régimen, a sus familias y amistades aquí en los Estados Unidos y en Cuba, les digo que el pueblo americano está con ustedes. Y, aquí en el Congreso de los Estados Unidos, vamos a defender su libertad y ganar la lucha contra la brutalidad y la opresión.

Por eso, junto con mis otras colegas en el Congreso, escribí esta resolución que condena la ola represiva contra los disidentes que hizo la régimen Castro hace dos años y que declara que la gente cubana debe tener los derechos humanos y la libertad—la libertad de expresión y de asociación—y el derecho de tener elecciones libres.

To all my friends here today who don't speak Spanish, don't worry, I won't spend the rest of my time speaking in Spanish. But I did want to take a moment to speak directly to the Cuban people to let them know that we stand with them in their fight for freedom and human rights.

We are debating this resolution today under the shadow of the 2nd anniversary of the crackdown on dissidents in Cuba. We often think of an anniversary as a moment to celebrate—but clearly we have nothing to celebrate today. Instead, we use this anniversary to mark a tragedy in the lives of the Cuban people and to the lives of all those who support democracy and human rights in the hemisphere.

The whole world was horrified as more than 75 journalists, human rights activists, and op-

position political figures were arrested, given summary trials, and then sentenced to prison terms of up to 28 years. Many of the prisoners, along with other prisoners of conscience, spent over a year in solitary confinement. Some have been deprived of adequate medical treatment and reports from Cuba detail beatings and harassment.

I am not fooled by the recent release of a number of dissidents, by this attempt to trick the international community. I am not fooled because I know that when they released those dissidents, who should never have been in jail in the first place, they also arrested new dissidents. I am not fooled because I know that they only released these dissidents on "parole," meaning that they could be arrested again at any time.

Hundreds of political prisoners remain in Castro's jails today. Clearly, the Castro regime has no respect for the Universal Declaration of Human Rights, which states in Article 4 that, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." And the world has recognized these injustices. The State Department calls this wave, "the most despicable act of political repression in the Americas in a decade."

Castro's human rights record has been condemned by Amnesty International, Freedom House, and other human rights groups.

In a statement, Amnesty International said that these "prisoners of conscience" should be immediately released and called on the Cuban regime to, "comply with the principles laid out in international rights standards for the treatment of prisoners."

Freedom House included Cuba in its report entitled, "The Worst of the Worst, The World's Most Repressive Societies, 2004." And the House of Representatives has condemned Castro's human rights record as well, in multiple resolutions. This year, on the two-year anniversary, we are here to pass a resolution that condemns Castro's brutal crackdown and demands that the Cuban regime immediately release all political prisoners, legalize all political parties, labor unions, and the press, and hold free and fair elections.

Today is a time for all of us to come together, from both sides of the aisle, to stand together for a universal cause: human rights.

Today, in voting for this resolution, we will celebrate the strength and perseverance of the Cuban people.

Today, we will vote for the universal values which we all share.

So I call on all of the Members of the House of Representatives to join me in the fight for human rights and democracy for the Cuban people.

Now is the time for us to stand together against brutality, torture and dictatorship.

Now is the time for us to stand together for freedom, for the right to free speech and free association, and for human rights in general.

Now is the time for us to stand together as we call on the Cuban regime to immediately release these prisoners of conscience, who were jailed for standing up for democracy and human rights against a brutal dictatorship.

To my brothers and sisters who suffer in Castro's jails, to their families and friends both here in the United States and Cuba, and to the Cuban people, I say that Castro will not succeed in his vain attempt to suppress the spirit of the Cuban people. I look forward to the day, which is coming soon, when we will

all celebrate a free and democratic Cuba. It is the spirit of the Cuban people and their courage that will ultimately be Castro's downfall.

So, I ask each of you to join me in voting yes for this resolution.

Mr. SMITH of New Jersey. Mr. Speaker, we have no further requests for time.

Mr. LANTOS. Mr. Speaker, we have no additional requests for time, and I yield back the balance of our time.

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

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 81.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### GENERAL LEAVE

Mr. SMITH of New Jersey. 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. 81.

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

There was no objection.

□ 1630

#### APPOINTMENT OF CONFEREES ON H.R. 1268, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

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

The Clerk read as follows:

Mr. Obey moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments, to the bill, H.R. 1268, be instructed to insist on the highest levels of funding within the scope of conference for Customs and Border Protection, Federal Law Enforcement Training Center, and Immigration and Customs Enforcement and to agree to the Senate provision regarding including requests for future funding for military operations in Afghanistan and Iraq in the annual budget of the President.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

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

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion is very simple. It does two things. First of all, it instructs the conferees representing the House to accept the Senate increases in the Byrd and other amendments that would strengthen our customs and border protection; it would strengthen our immigration and customs enforcement and fund the Federal Law Enforcement Training Center.

Secondly, it instructs the conferees to agree with the Senate amendment, again, the Byrd amendment, which would require that all future administration requests for funding the wars in Iraq and Afghanistan be presented within the context of the regular budget rather than being funded as they have been so far through the supplemental process.

Let me address briefly both issues. With respect to the border protection issue, let me point out that many years ago the Rudman-Hart Commission had effectively warned this Congress that our borders were a sieve.

In the immediate days after this House was hit with the anthrax scare, shortly after 9/11, I went down to the White House with the then-chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), and we proposed to the President a bipartisan list of supplemental additions to antiterrorist activities that we believe should be funded in order to strengthen homeland security. Included in those recommendations were added dollars for our ports, added dollars for our border protection. When we laid out what we were interested in doing, the President simply ended the conversation by saying to us, "I am sorry but my good friend here, Mitch Daniels," who was then the Director of OMB, he said, "my good friend Mitch Daniels here tells me that the administration has requested more than enough money for Homeland Security. And so I want you to know if you in-

clude one dollar more than we have asked for in our budget submission, I will veto the bill."

That is essentially what he said. Ever since that day, we have been strained in the Congress to overcome the White House's reluctance to provide adequate resources to secure our borders.

I would point out that the PATRIOT Act itself called for a tripling of inspectors and agents on the northern border alone, and yet no Bush administration budget has ever proposed to meet that goal. Only because of congressional insistence have we finally been able to meet that goal, and I would say it has been a long time in coming and it was long overdue.

On March 30 the administration announced that they were putting 500 agents in Arizona, but those agents were not new agents; 135 of them were simply transferred from other sources and the rest of them were simply new trainees to take the place of agents who were retiring or leaving the service. That is why we believe that the added funding provided in the Byrd and other amendments in the Senate to add funds for securing our borders, that is why we believe that money is necessary.

□ 1645

With respect to the second provision, the reason this second provision is necessary is to end the administration practice of hiding the true cost of the war in Iraq. We have spent, to this point, about \$280 billion on that war. CBO estimates that the 10-year cost of our efforts in Iraq and Afghanistan will wind up being about \$460 billion, and yet all of that money has been spent through a supplemental process, rather than the process of having the President submit in his regular budget their estimated cost for those activities for the year.

When you cut through all of the bull gravity, there is only one reason why the White House has done that, because they are trying to obscure the full cost of those military operations.

Now, I would simply remind this House that President Roosevelt included the cost of funding World War II in his 1943 budget request. President Johnson included the cost of paying for the war in Vietnam in his 1966 budget request. President Clinton, at the insistence of this Congress, provided in the regular budget for the costs for financing our Bosnia operations and the enforcement of the no-fly zone edict in the 1997 budget.

People think that the President this year has submitted a budget which contains a deficit of \$390 billion. In fact, that budget deficit does not include \$1 of the more than \$80 billion that this House voted to add to pay for the war in Iraq just a couple of months ago.

So I would say this provision simply is in pursuit of truth in budgeting, and I see no public policy reason why either of these provisions should be resisted. I

ask for a "yes" vote when the vote occurs.

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

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

I do not intend to use a lot of my time, but I think our public knows that both sides of the aisle, Democratic and Republican sides of the aisle, are struggling with the question of how we provide adequate funding to make certain, absolutely certain, that we are protecting our borders.

Just following 2001, the past administration had difficulty trying to figure out exactly what those costs should be. We should be willing to do whatever is necessary within the limits of what is sensible, to secure those borders.

It is my intention to support that position, and I do not intend to resist this motion to instruct.

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

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from California (Mrs. TAUSCHER).

Mr. Speaker, could I inquire, after her 5 minutes, how much time do I have remaining?

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The gentleman from Wisconsin (Mr. OBEY) will have 18 minutes remaining, and the gentleman from California (Mr. LEWIS) will have 29 minutes remaining.

Mrs. TAUSCHER. Mr. Speaker, I thank the distinguished ranking member for the time.

Mr. Speaker, I rise today in strong support of the gentleman from Wisconsin's (Mr. OBEY) motion to instruct conferees on the emergency supplemental.

This motion declares that all future funding requests for the war in Iraq and Afghanistan should be included in the President's budget, not in emergency supplemental spending bills.

This provision enjoyed wide bipartisan support and was included in the Senate bill. The House needs now to follow this track to fiscal responsibility.

While I support using emergency funds to pay for real emergencies, continued reliance on emergency spending for the war in Iraq and Afghanistan is fiscally irresponsible. Congress should stop bailing out the Pentagon for its inability to pay for the costs in Iraq.

On top of over \$400 billion in defense appropriations every year, Congress has provided \$268.7 billion in emergency supplemental funding for the war in Iraq and the war on terror. The new emergency supplemental will bring total war-related supplemental spending to \$350 billion.

The gentleman from Wisconsin's (Mr. OBEY) motion would not prevent this emergency supplemental from going through, but it would make sure that the administration and the Pentagon, like millions of Americans, budget according to their means. We can afford

to fight and win the war on terror, but the public should not be misled into believing that these costs are an emergency or unexpected or that there is not an imperative for the Pentagon to look at its existing budget and deal with the war inside that budget.

For example, we know that the war in Afghanistan and Iraq operations cost roughly \$6 billion a month. Those costs have been somewhat fixed for well over a year. It is perfectly capable and necessary for the Pentagon to look inside its own operations, find savings and find a way to put this in the budget.

These costs can be planned for and considered by Congress in regular order, instead of saddling our children with billions of dollars of debt and cutting vital domestic programs.

Last February, the gentleman from California (Mr. HUNTER), my friend and colleague and chairman of the House Committee on Armed Services, sent a strong letter to the Committee on the Budget for what he called funding certain items in the supplemental "inappropriate." The gentleman from California (Mr. HUNTER) also agreed with many of us that some supplemental costs should be included in the annual budget process for consideration and action by the Congress.

Not budgeting for the war in the regular Pentagon budget is an abrogation of our responsibilities as stewards of the taxpayers' trust.

I urge support of the Obey motion.

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

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Minnesota (Mr. SABO), the ranking member of the Subcommittee on Homeland Security.

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in support of the Obey motion to instruct. ICE simply needs more money, and I think we all understand that. For some reason, their budget has been in shambles ever since the Department was created. Their bookkeeping has been in shambles more so than their budget, and I am not sure if it is their fault or the fault of the central Department, but it is somebody's fault. It is all screwed up.

It is not because Congress has not provided the money they asked for. Last year, we provided slightly more than they asked for, and so they were in hiring freezes and training freezes and one problem after the other. Now they want to take money away from lots of other good programs to make up for their budget shortfall. We simply need to get ICE's funding straightened out, and this supplemental does it.

The other thing this supplemental does is add border agents. Whatever one's views are on all the controversies relating to immigration and other issues, one thing is evident, and that is, we need to strengthen our law enforcement on our borders, whether it is the northern border or the southern border.

I was out this winter and visited the southern border in California where clearly we have made significant progress; but what seems to happen, we plug a hole someplace and the pressure comes other places. So we need to add border patrol people.

We were told in our committee that they should have the capacity to train about 1,200 people a year; and clearly, this bill provides less than 1,200, but even I think the President's request is an additional 200 for next year. So, clearly, they have the capacity to begin the process of training and hiring additional border patrol agents.

It is not something that happens. You do not say we want more agents and it happens tomorrow. You have to recruit them, you have to hire them, and you have to train them. The need is obvious, I think, to everyone; and this bill clearly moves us in the right direction.

So I hope we adopt the motion to instruct and adopt the policies implemented in the Senate bill on funding for ICE and for border patrol agents.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Let me say that I feel this discussion is a very healthy discussion in terms of the preliminary work we have to do here. The most important reason for this supplemental is because in line and waiting are the troops who are representing us so well in the Middle East.

It is critical that we get this bill on to conference and move it quickly to the President's desk. So, today, I would hope with all of our discussion, above and beyond everything else we make every effort to make certain we get this bill to the President as quickly as possible.

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

Mr. OBEY. Mr. Speaker, could I inquire of the gentleman if he has any other remaining speakers.

Mr. LEWIS of California. Mr. Speaker, I do not.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me simply say I think I have already chewed the cud quite enough, and I think anyone who cares to listen understands what this motion does. These motions were accepted by wide margins in the Senate. I see no reason why they cannot be accepted here; and if the gentleman is prepared to yield back, so am I.

Mr. REYES. Mr. Speaker, I rise in strong support of this important motion to instruct conferees on the fiscal year 2005 Supplemental Appropriations bill.

As a Member representing a district on the United States-Mexico border, and as the only Member of Congress with a background in immigration and experience defending our Nation's borders, I have firsthand knowledge of the kinds of resources we need to help keep America safe.

Since coming to Congress I have heard a lot about how we need to crack down on illegal immigration in this country, but seen very

little action when it comes to providing adequate funding for the programs that we know work in dealing with the problem.

Most recently, with the passage of the Intelligence Reform bill, Congress promised to provide funding to hire thousands of new Border Patrol agents and create thousands of beds for immigration detention and removal activities. Unfortunately, however, the President's proposed FY2006 budget falls woefully short of meeting these needs.

During House consideration of the Supplemental Appropriations bill, I offered an amendment to add \$772 million to hire an additional 1,000 Border Patrol agents, provide 8,000 beds for immigration and detention removal operations, and install radiation portal monitors at Ports of Entry. That amendment, which would have provided essential border security funding, was ruled out of order on procedural grounds. Unless we insist on the highest possible levels of funding for border security in this conference, Congress will once again fail to keep its commitment on this vital issue.

Meanwhile, every day foreign nationals from over 150 countries who are here in the United States illegally are being apprehended and turned back out onto our streets because we lack the space to detain them. At the same time, we hear of known terrorists who are training recruits to infiltrate our country in order to do us harm.

Mr. Speaker, the time has long since come to make good on our border security promises—or continue to risk safety of the American people. I urge my colleagues to support Mr. OBEY's motion to instruct.

Mr. ORTIZ. Mr. Speaker, I rise in support of the Obey motion to instruct conferees on H.R. 1268, Wartime supplemental, to insist on the highest possible funding for more border patrol agents and to insist on the Senate provision calling for requests for future funding for military operations in Afghanistan and Iraq to be included in the annual budget of the President.

As a member representing a border community—and a senior member of the House Armed Services Committee—I am grateful for Mr. OBEY's leadership and his work to include these important provisions in our Wartime supplemental. As so many of our colleagues know, I have been lifting my voice to get the word around to members that our border security is profoundly lacking. Members can go to my web page for more information about the dangerous practices ongoing along the U.S. Mexico border.

Currently, the United States does not have room to hold the large number of illegal immigrants—called OTMs, Other than Mexicans—caught by border law enforcement. So we are releasing—on their own recognizance—into the population of the United States—very large numbers of OTMs. Very few released OTMs return for a mandatory deportation, meaning there is a large number of OTMs at large in the U.S., immigrants who have passed through the hands of law enforcement. Border law enforcement officers routinely call the detention centers, discover there is no more room to hold OTMs, so they are processed and released into the general population on their own recognizance.

The OTMs are given a "Notice of appear," paperwork that allows them to travel freely in the United States through the time they are to return for deportation. Law enforcement officers then take the released OTMs to the local



bus station by the vanload, where they head elsewhere in the U.S. The number of “absconders”—those who never appear for deportation—is over 90 percent of those released, a number now estimated to be approaching 75,000. Already the number of OTMs captured and released is more so far this year, then for all of last year.

The Southern Border is being left utterly unprotected, and there is the real possibility that terrorists can—or already are—exploiting this series of holes in our law enforcement system along the southern border. These are the things we know. There is no way of even guessing how many others are entering the country, but who are not passing through the hands of government law enforcement officers, so Mr. OBEY’s instructions to our appropriators is extremely timely.

This is a clear and present danger inside the United States, and the number of released illegal immigrants not returning for deportation grows by the hundreds each week. This is willfully ignoring a complex problem that undermines our national objective: to take the war to the enemy so we do not have to fight the war on terror inside our country. It is little wonder that private citizens are taking the law into their own hands to try to stem the tide of OTMs coming into our country. But private militias—operating without the color of law—is not the answer. We must secure our borders so private citizens do not feel the need to do so.

Our budget reflects the values and priorities of the American people. Consider what the 2005 budget did not include:

The Intelligence Reform bill that became law in December, 2004, mandated 10,000 Border Patrol agents over 5 years, 20,000 annually. The President’s budget funded 210 BP agents, the senate added 1,050 agents. The House must stand up and add the full 2,000.

Intelligence Reform mandated an increase of 8,000 beds in detention facilities annually for the next 5 years, still not nearly enough to hold all those coming in the U.S. . . . yet the President’s budget proposal provides for only about 1,900 new detention space beds—over 6,000 beds short of the congressional mandate passed in December, 2004. We can add all the Border Patrol agents we want, but without a place to hold these OTMs, the problem remains.

Grants to reimburse local law enforcement officers that also hold illegal immigrants for the federal government were slashed, adding to the problem. I was a law enforcement officer in my previous life. If we don’t have the border officers to stop the OTMs crossing the border . . . if we don’t have the room to hold the ones we catch . . . if we don’t put our money where our mouth is, we are sending a dangerous signal to those who may wish to do us harm. Until we send a signal that those who cross our borders illegally . . . until we send a signal that when we catch you we will hold you until you are deported . . . until we honestly face the amount of money it will take to deal with these things, OTMs will continue to flock to the U.S.

We must send that signal today. Homeland security must be about the security of our people and our property, it cannot be budget driven as it is today.

Lastly, as a fiscal conservative and member of the Armed Services committee, I know it is ultimately the responsibility of Congress—not

the Administration—to properly spend money on military operations. To that end, I thank our Ranking Democrat on appropriations for including in this motion a provision requiring future funding for our military operations to be included in the President’s budget.

All the money we appropriate here is the people’s money and we must be good stewards of it. To rush through special bills to fund the military when committees of jurisdiction have not had the opportunity to review the bills is an abdication of our responsibility.

I encourage the members to support this motion to instruct our conferees on the Supplemental appropriations bill to include funding for border security and to require further military funding requests move through our regular authorization process for the fullest scrutiny by the authorizing committees.

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

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

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

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

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 5:30 p.m. today.

Accordingly (at 4 o’clock and 57 minutes p.m.), the House stood in recess until approximately 5:30 p.m. today.

□ 1737

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 5 o’clock and 37 minutes p.m.

APPOINTMENT OF CONFEREES ON H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2006

Mr. NUSSLE. Madam Speaker, I ask unanimous consent to take from the Speaker’s table the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, 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 Iowa?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MS. HERSETH  
Ms. HERSETH. Madam Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. Herseth of South Dakota moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the concurrent resolution H. Con. Res. 95 be instructed, to the maximum extent possible within the scope of the conference—

(1) to recede to the following findings of the Senate: (A) Medicaid provides essential health care and long-term care services to more than 50 million low-income children, pregnant women, parents, individuals with disabilities, and senior citizens; and (B) Medicaid is a Federal guarantee that ensures the most vulnerable will have access to needed medical services;

(2) to strike reconciliation instructions to the Committee on Energy and Commerce and recede to the Senate by including language declaring that a reconciliation bill shall not be reported that achieves spending reductions that would (A) undermine the role the Medicaid program plays as a critical component of the health care system of the United States; (B) cap Federal Medicaid spending, or otherwise shift Medicaid cost burdens to State or local governments and their taxpayers and health providers; or (C) undermine the Federal guarantee of health insurance coverage Medicaid provides, which would threaten not only the health care safety net of the United States, but the entire health care system;

(3) to recede to the Senate on section 310 (entitled “Reserve Fund for the Bipartisan Medicaid Commission”) of the Senate amendment; and

(4) to make adjustments necessary to offset the cost of these instructions without resulting in any increase in the deficit for any fiscal year covered by the resolution.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from South Dakota (Ms. HERSETH) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Madam Speaker, to explain the motion, I yield myself such time as I may consume.

The House-passed budget directs the Committee on Energy and Commerce to cut spending on programs within its jurisdiction by \$20 billion over 5 years. The vast majority of this \$20 billion in spending cuts, if not all of it, will likely fall on Medicaid. I and many of my colleagues in this body strongly oppose this language.

The majority of our counterparts in the Senate apparently share some of our concerns. The Senate approved an amendment by Senators SMITH and BINGAMAN to strike reconciliation instructions in the Senate budget that would have directed the Committee on Finance to cut spending by \$15 billion over 5 years, which all would have been from Medicaid. The Senate amendment

also created a reserve fund allowing for the creation of a bipartisan commission on Medicaid reform.

This motion protects Medicaid by instructing conferees to follow the Senate's lead and strike reconciliation instructions that target Medicaid for funding cuts and instead include a \$1.5 million reserve fund for the creation of a bipartisan Medicaid reform commission.

Forty-four of my Republican colleagues in the House recently wrote a letter to the chairman of the Committee on the Budget, urging him to remove Medicaid reductions in the budget resolution. In this letter they stated, "We are concerned that the inclusion of up to \$20 billion in reductions from projected growth in the Medicaid program will negatively impact people who depend on the program and the providers who deliver health care to them . . ."

"We strongly urge you to remove these reductions and the reconciliation instructions targeted at Medicaid and, in their place, include a \$1.5 million reserve fund for the creation of a bipartisan Medicaid Commission . . ."

Fifty-two Senators, including several Republicans, voted to strike Medicaid cuts in the Senate budget resolution and instead allow for the creation of a bipartisan Medicaid commission. The amendment's sponsor in the Senate, Mr. SMITH of Oregon, stated that "I would rather do this right than do this fast . . . I don't know where the original Senate cut of \$14 billion came from. But I know what it is going to mean: another 60,000 Oregonians may be losing health care, pressuring private plans, overwhelming emergency rooms."

During that same debate, Senator MCCAIN of Arizona stated that "cuts to Medicaid that result in reduction of covered individuals would flood hospital emergency rooms with additional uninsured patients, forcing hospitals to absorb additional costs for uncompensated care."

And Governors are virtually unanimous in their opposition to allowing arbitrary budget cuts to drive Medicaid policy. For example, the Republican Governor of Ohio said, "We do not support recommendations that would save the Federal Government money at the expense of the States." Perhaps Arkansas's Republican Governor stated it best when he said, "People need to remember that to balance the Federal budget off the backs of the poorest people in the country is simply unacceptable."

And the American people agree. Four out of five Americans oppose cutting Medicaid to reduce the Federal debt, according to a poll released today by AARP. Across the country many hospitals, assisted living centers, and nursing homes have high Medicaid utilization rates and are reliant on Medicaid as a major source of funding.

But Medicaid is not keeping pace with the cost of providing health care.

This is particularly true in rural States like South Dakota, which is one of the States hit hardest by Medicaid's shortfalls. According to a new report to be released tomorrow, Medicaid long-term care for economically disadvantaged elderly persons is underfunded by \$4.5 billion annually. The results are both real and devastating.

In 2004, South Dakota's Evangelical Lutheran Good Samaritan Society facilities saw a net operating loss for Medicaid patients of over \$3.5 million for the year. In January the Good Samaritan Society announced it would be closing three facilities in eastern South Dakota.

This means that for some South Dakotans, they will not have access to the medical and long-term care services they need, or they will find themselves moving further from their families in order to find an available facility. This also means the loss of jobs in our smaller communities. And it means as a Nation we are failing our poor, our elderly, and our rural communities.

Talk of cutting \$20 billion out of the Medicaid system over the next 5 years is completely at odds with the needs of people in South Dakota and across America.

In fact, a coalition of 135 organizations that represent groups ranging from medical specialties to faith-based groups have asked the conferees to eliminate all proposed reductions in Federal funding for Medicaid from the final fiscal year 2006 budget. The letter, signed by the American Diabetes Association, Catholic Charities USA, and other organizations, said that the "elimination of such cuts is essential for the health and long-term care of Medicaid enrollees, the providers who serve them, and State and local units of governments."

□ 1745

That is why this motion is so important. It protects this critical program by instructing conferees to follow the Senate's lead and strike reconciliation instructions that target Medicaid for funding cuts. I urge my colleagues to support this motion and to protect Medicaid.

Madam Speaker, I reserve the balance of my time.

Mr. NUSSLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is a very interesting motion to instruct conferees. First of all, I am happy that we are at the point in time where we are able to go to the conference with the other body and complete our work on the Concurrent Budget Resolution for Fiscal Year 2006. This is never an easy road to travel when you are trying to accomplish so much, when you are trying to accomplish reforms in some very challenged programs that by anyone's estimation are unsustainable and are growing beyond the means not only of the Federal Government to fund but also State governments to fund.

It is always difficult when you have different ideas from different chairmen, different bodies, different leaders, different parties who want to come forward and make their mark on exactly what that spending blueprint should be. But I would like to acknowledge that I think we are all happy we are finally getting to a conference and the ability to work out our differences.

As such, I look at this motion to instruct conferees, and I am wondering what the controversy is. All of what the gentlewoman just said are comments that my colleagues on both sides, whether you are Republican or Democrat, have made throughout the entire debate over the budget.

We have an unsustainable program called Medicaid which is not serving the most vulnerable people in our society to the fullest extent that it should or that it must in order to meet not only the obligations that we have entrusted in the program but also to make sure that it is sustainable, not only in the short run of our budget, but also long term in our overall fiscal situation that our country faces and that many of our States face. So as I read the motion to instruct conferees, I am puzzled by what the controversy is.

It says we should recede to the following findings. Those findings are that Medicaid provides essential health care and long-term care services to more than 50 million low-income children, pregnant women, parents, probably grandparents as well and great grandparents of many of ours, individuals with disabilities and senior citizens; and that, B, Medicaid is a Federal guarantee that ensures the most vulnerable will have access to most needed medical services.

We all agree. There is nobody here that disagrees with that. That is what the program was set up for; and that is the reason why we are so intent on reforming it, so that it continues to meet that mission and continues to deliver quality health care services for our parents and our grandparents, children who may be of low-income families and people with disabilities and senior citizens. It is a guarantee. It is something that we all believe in. We are here to help people who cannot help themselves.

Unfortunately, this program in many instances in its current state, 40 years old now, you might not be surprised to hear that it needs a little bit of work, it needs a little bit of reforming. The Governors have figured that out, and they have come to Washington with proposals that find savings, not cuts. They are themselves proposing savings in the neighborhood of \$8 billion to \$9 billion, and that is just their first inception, that is just their first proposal, before we even go down that road.

Then I looked further at the motion to instruct conferees and it says: "To strike reconciliation instructions to

the Committee on Energy and Commerce and recede to the Senate by including language declaring that a reconciliation bill shall not be reported that achieves spending reductions that would undermine the role the Medicaid program plays as a critical component of the health care system of the United States."

I say again, there is no controversy in that. That is not the intent of the budget, that is not the intent of the conference, that certainly is not the intent of either reconciliation instruction. In fact, we think it is a pretty good idea to set up a conference and to set up an opportunity to take a look at this in some type forum, whether it is a task force, whether it is a working group, however you want to put it together, in order to come up with ideas and resolve this problem.

We want to invite the Governors to the table. Certainly they have the best perspective when it comes to how this program works in their individual States. Many of them have sought waivers in order to be able to reform the program on the ground in which they see it so that that program which delivers these essential services can be met and delivered in a more quality way to our seniors and to our citizens with disabilities, to our parents and grandparents, and to our most vulnerable who may be low income.

So I do not see the controversy. I understand that because, as the gentlewoman said, there are polls, there certainly is politics involved. Anytime that anyone wants to bring forward any kind of reform measure, the immediate thing is to rush breathlessly to the floor and claim that it is cutting funds for people, and it is cutting the most vulnerable and it is hurting people, and that is exactly what was said about the welfare reform bill when it came to the floor not 10 years ago, and it did not happen. It helped people. It unlocked from poverty thousands upon thousands of families and children in our society who all they needed was a hand up. For a while they may even have needed a handout. But because of the requirements that we passed in a bipartisan way, we were able to rise above the politics and the rhetoric and help people. That is what we want to do here.

There is not one Member who can come to the floor and say this Medicaid program is working in your State to its fullest extent, not one of you. Not one of you can say that. There is not one Member in the other body who can say that. There is, I dare say, not one Governor who can claim the Medicaid program in their State is working. So you are asking us here today in a political way, in a nonbinding motion to instruct, to do nothing.

Thankfully, that is not how you crafted technically your motion to instruct. You gave just a little bit of a backdoor, because you know as well as we do that this program needs attention, that it needs reformation, that it

needs Governors and Congress and the administration to sit down and talk about the future of a program that is needed in order to deal with the most vulnerable in our society. So thank you for not crafting this in such a fail-safe way so that we had to vote against it and suggest that Medicaid should not be reformed, because, of course, it should.

I hope that is not what you are saying. If you are, say it. If you are saying do not reform Medicaid, do not touch it, do not change it, it is perfect, it is helping people, come to the floor and dare to say that. But if that is not what you are saying, then save that political rhetoric for some other time and let us work together to fix it.

That is what this ought to be about. Republican and Democrat Governors are certainly willing to do that. They are sitting down. I have got proposals here that add up to \$8.6 billion of ideas that the Governors have already agreed to as a starting point. Now, are we claiming that those Governors are cutting? Are they gouging? Are they throwing people out on the street? Are they hurting seniors and people with disabilities?

Certainly that is not what we are saying. That is not what we would claim they are doing. They see a problem, they have come together to try to fix it, and that is what we should do as well. Reconciliation gives us that opportunity.

So I appreciate the gentlewoman's motion to instruct. It is crafted perfectly so that political points can be made. But there is just that little backdoor that says, you know what, even though we kind of like the Senate language, we like the fact that they are putting together ideas, we like the fact that the Governors are coming to the table, we heard all of that rhetoric, even though we want to make some political points today, there is a little bit of a backdoor so we can all vote for this and say that the Medicaid program, as most of our Governors would suggest, is unsustainable. It is unsustainable whether you are in the capital of your State or whether you are in Washington, D.C. And that is why we need to come together as Republicans and Democrats, in order to fix this.

So I appreciate the way the gentlewoman has crafted it. I am going to urge my colleagues to vote for the motion to instruct. I think it is well-crafted, to give everybody the opportunity to make the political points, to issue your press releases. I know you are going to do that. Knock yourselves out. I am sure they are already on the fax machine. But in the meantime, after all of the fax paper has cleared the air, let us sit down and talk about ways to fix this program so it actually does help people who are in need and were truly meant to be the focal point of this program when it was invented 40 years ago and which has rarely been changed from a Washington perspective ever since.

Madam Speaker, I reserve the balance of my time.

Ms. HERSETH. Madam Speaker, I yield 5½ minutes to my good friend, the gentleman from Maryland (Mr. HOYER), the distinguished Democrat whip.

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

Mr. HOYER. Madam Speaker, I thank the gentlewoman for yielding me time, and I thank her for her leadership on this very important issue.

Cleverness says that when you are going to lose, declare victory. That is what the gentleman from Iowa (Chairman NUSSLE) is going to do; he is going to declare victory, because what he says is there is consensus on his rhetoric. He is correct.

What there is not consensus on are the policies pursued by the chairman, the Committee on the Budget, and the majority. The chairman's budgets have put America \$2.4 trillion in additional debt from when he took over just 4 years ago. As a result of putting us \$2.4 trillion in additional debt, we are having trouble paying our bills.

This year alone we are going to have a budget deficit of half a trillion dollars. They do not count some of it. They pretend some of it is emergency spending, and they do not even count AMT fixes. There are a lot of things they do not count. But the fact of the matter is that their policies undercut their rhetoric, and the reason the chairman is going to support the gentlewoman's resolution is because of this chart: 44 of his Republican colleagues who said this is bad policy, do not do it. Not Democrats, Republicans. Forty-four of them.

Madam Speaker, I thank you for signing on to that letter, because you knew that the policies proposed by the Republican budget were, in this instance, not policies you wanted to pursue.

Madam Speaker, less than 4 weeks ago, on March 31, the President of the United States said, "The essence of civilization is that the strong have a duty to protect the weak." On that very same day, the majority leader in this body, the gentleman from Texas (Mr. DELAY), stated, "The one major responsibility of a government is to protect innocent, vulnerable people from being preyed upon."

I absolutely agree that we not only have a duty but we have a moral responsibility to protect the weakest and most vulnerable citizens in our Nation. That, I tell the chairman of the Committee on the Budget, is what Medicaid is all about. And the gentleman's rationalization that Medicaid must be fixed, in which he is also correct, we all agree. But like your Social Security solution, of privatizing Social Security because it has financial problems, realizing full well that your privatization does not affect solvency at all, is an empty solution, because you do not know how to solve it yet because you

have not come across with a suggestion.

All you have said is to cut the legs out from the most vulnerable, which Medicaid serves. That is what you have said. That is why these 44 colleagues of yours, not Democrats, Mr. Chairman, Republicans, 44 signed this letter.

You know you are going to lose this motion, and so you are going to agree with this motion on some rationalization that we suggest a commission to come up with a solution, because you are right, absolutely right: we know that we have to come up with a solution because we cannot let down the most vulnerable in our society.

□ 1800

But I do not understand, notwithstanding the Speaker's rhetoric, notwithstanding the rhetoric of the gentleman from Texas (Mr. DELAY), notwithstanding the chairman's rhetoric, notwithstanding the President's rhetoric; if the President, the majority leader, and the House Republicans are truly concerned about protecting the weak and vulnerable, why are they so intent on slashing Medicaid funding so deeply?

The fact is, Medicaid finances health care for more than 58 million Americans, including 28 million low-income children, nearly 16 million parents, and nearly 15 million elderly and disabled citizens. Yet the House Republicans' budget would cut Medicaid funding by \$20 billion over 5 years, a cut so draconian that 44 House Republicans, as I said, have said no to that cut.

I urge my colleagues to support this motion to instruct. My understanding is the chairman is going to support it. I am pleased about that, but nobody ought to misunderstand that "this is a political judgment that we are going to lose, so we will pretend that we win." He did the same thing when the gentleman from South Carolina (Mr. SPRATT) offered his motion and we were going to win last year.

We need to protect our vulnerable citizens. The President of the United States is correct, the gentleman from Texas (Mr. DELAY) is correct. Vote for this motion to instruct. Not only that, I hope the Chairman will take this motion to instruct not just as a request, but as a moral duty.

Mr. NUSSLE. Madam Speaker, I yield myself 1½ minutes.

I want Members who are listening, maybe in their offices or here on the floor, and anyone else that is interested in listening to this debate today, listen for four things. Listen to whether you hear anyone come to the floor today and defend the Medicaid program as it stands today as perfect. My colleagues did not hear the gentleman from Maryland say that because, of course, he does not agree with that. Listen to hear if you hear any Member come to the floor and say, absolutely not, you cannot find a nickel's worth of savings in the program. You will not hear any Member come to the floor

today and say that. I dare say the gentleman from Maryland would not say that.

Listen to this: Did the gentleman say he was against reform? Of course not. The gentleman from Maryland knows that in Maryland, as in Iowa, the program needs help if it is going to meet the needs of a changing world and meet the needs of its original mission. And listen to hear whether you hear any of them come forward and disagree with the bipartisan result of the Governors coming forth with savings. Not one Member will come today, I would dare say, and suggest that they are going to disagree with the Governors who come forth with ideas. My colleagues will not hear that.

So make your political points; even bring in Social Security. Did my colleagues hear that one? Social Security was even raised today. Boy, we are going to hear all sorts of great arguments, but we will not hear one that says we cannot find savings, this program is perfect, we are against reform, and we disagree with the Governors. We will not hear that. That is why we need to move forward with a reform of the Medicaid program ushered in by this budget.

Madam Speaker, I reserve the balance of my time.

Ms. HERSETH. Madam Speaker, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I say to the chairman of the Committee on the Budget, my suggestion is to come forward with a reform program. Let us consider it. But do not cut vulnerable people prior to coming up with solutions. Do not make them pay the price of losing Medicaid while we are trying to solve the problem. Let us solve the problem.

The gentleman is right, and we are not going to come to the floor saying there is no problem. But we are going to come to the floor and say, do not have vulnerable people let down while we are trying to solve that problem.

Mr. NUSSLE. Madam Speaker, I yield myself 15 seconds to just say I have a reform idea right here from the Governors that I would agree to right now.

Mr. HOYER. Madam Speaker, if the gentleman will yield, the gentleman is on the Committee on Ways and Means. Pass it and make it policy.

Mr. NUSSLE. Madam Speaker, reclaiming my time, the Committee on Energy and Commerce has jurisdiction. But be that as it may, I yield myself 15 more seconds to say that all I am suggesting is there are some good ideas that are out there, and the budget is a vehicle to accomplish a reform schedule. That is what we are trying to agree to, and I appreciate the fact the gentleman wrote the motion to instruct to give us the opportunity to meet that reform schedule in a bipartisan way, I hope.

Madam Speaker, I reserve the balance of my time.

Ms. HERSETH. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), my esteemed colleague and ranking member of the Committee on Energy and Commerce.

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

Mr. DINGELL. Madam Speaker, I rise in strong support of the motion to instruct, and I observe that this motion instructs the conferees to recede to the Senate position. Instead of Medicaid cuts, a nonpartisan, independently appointed commission would be instructed to come up with improvements in the program. That is exactly what the gentleman from Iowa suggests.

Now, let us look. There is money here to make a better use of public funds. The MEDPAC, the Medicare Payment Advisory Commission, observed that we overpay the HMOs by \$20 billion. That happens to be just about exactly the amount of the cut that we are talking about here.

Every Governor in the United States is in favor of this motion. Medicaid is critically important to more than 50 million Americans. It provides health care for 1 in 4 children. It is a lifeline for the elderly and for individuals with disabilities. It pays for long-term care, and it helps those who have had the misfortune of becoming ill and needing help in their basic activities of daily living.

The proposed cuts in the program would cause undue harm to millions of our most vulnerable Americans. If a \$10 billion cut were enacted, my home State alone stands to lose more than a quarter of a billion dollars over the next 5 years. I would tell the gentleman from Iowa, he better look to see what happens to his State. A bipartisan majority of both the House and Senate oppose cuts in this program. Nearly 1,000 State organizations and more than 800 national organizations have voiced strong opposition to this.

The problem is not Medicaid. It has done a better job in holding down costs than has private insurance. Medicaid is absorbing the costs of care not covered under Medicare. An independent look at Medicaid may show that there is a better solution, but the better solution does not involve blindly cutting monies now so desperately important to people of this kind and so urgent for the States.

Mr. NUSSLE. Madam Speaker, I yield myself such time as I may consume just to respond and say, okay, I stand corrected. I thought no one was going to come to the floor and say do nothing. But I guess there are going to be a few Members who come to the floor and say do nothing. I am surprised by that. I think there will be a bipartisan vote today to do something, but doing nothing I really believe is not an option, and I guess I am surprised that there will be Members who will come to the floor today and do absolutely nothing to help improve the Medicaid program.

But I know someone who wants to do something.

Madam Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. DEAL), the very distinguished chairman from the Committee on Energy and Commerce.

Mr. DEAL of Georgia. Madam Speaker, I thank the gentleman for yielding me this time.

As I look across the aisle, I see some of my colleagues who work with me on the Committee on Energy and Commerce, and I truly believe that all of us want to do what is right. We want to find a solution.

The fact is that the issue is one that on a bipartisan basis Governors say has to be dealt with. In fact, as recently as only over a week ago, Governor Mark Warner, a Democrat Governor of Virginia, who is the chairperson of the Governors' Association, National Governors' Association, made this comment: "We are on our way to a melt-down." That is the message that we hear repeatedly when we talk with Governors. And the reason is that the cost of Medicaid to States has now exceeded the cost of both elementary and secondary education in their State budgets, and they need relief. The relief that they seek in the current system is to come to Washington and ask for a waiver. And repeatedly, Governors come and say to us at the Federal level, the program that you have in place is too rigid. It does not allow us the flexibility to deal with the problems that we face in our State to give the best health care to our citizens. So they are asking for waivers.

I, for one, and I commend the gentleman from Iowa (Chairman NUSSLE) for his efforts in this regard; I believe that now is the appropriate time for us to give the Governors that relief. I think that relief should come in the form of changing the program.

I had a Governor recently who said his approach to it is to ask the question, if you were drafting Medicaid today, would it look like what it looks like now? And everybody agrees it would not.

So I think this is an opportunity, one that we should not allow to be bypassed, one that we should work cooperatively across the aisle here in this body, as the Governors are working in a bipartisan fashion of their own. The gentleman from Iowa (Chairman NUSSLE) alluded to some points that the Governors have agreed to on a bipartisan basis, and certainly those are very significant. The score that I see now is about \$8.6 billion on the score that I have seen on the parts that they have agreed to. I think there will be more. I think we will hear some very innovative suggestions from the Governors, and I think that if we work together and put aside our partisanship and try to do what is not only best for the citizens we represent in our congressional districts, but what our Governors do in our respective States and, working together, we will arrive at a solution.

Ms. HERSETH. Madam Speaker, I yield 1 minute to the Democratic leader, the esteemed gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I thank the gentlewoman for yielding me this time, and I commend her for her leadership in bringing this very important motion to instruct to the floor.

It is crystal clear, Madam Speaker, that a majority of Members in both bodies oppose cuts to Medicaid. The other body voted to remove such cuts on the floor of the Senate. With 44 House Republicans signing a letter calling for no Medicaid cuts and a solid Democratic opposition, a majority of this body also prefers a solution with no Medicaid cuts.

The regular order, as my colleagues know, Madam Speaker, is to appoint conferees, instruct those conferees, resolve differences with the other body, and report back a conference agreement. But the Republican leadership knew they could not defeat a motion to protect Medicaid, so rather than follow the regular order, they negotiated behind closed doors to include Medicaid cuts in the final budget report, regardless of how the majority in both Houses vote and how we vote in this House on the motion to instruct.

I usually do not like to talk about process in the House, but this is a time when process has a very direct impact on policy, and a policy that has a direct impact on the health of the American people.

Press reports indicate that the final agreement between the House and Senate will contain between \$8 billion to \$10 billion in Medicaid cuts. This conference report would not only ignore the will of the majority of both houses but, according to the Congressional Budget Office, it would include deeper cuts than originally proposed by the President, and vehemently opposed in both houses.

Madam Speaker, States have undergone a wrenching budget process. When the President first proposed Medicaid cuts in early February, many Republican Governors spoke out against them. One of them, Republican Governor Mike Huckabee of Arkansas, said, "People need to remember that to balance the Federal budget off the backs of the poorest people in the country is simply unacceptable."

It is unacceptable but, unfortunately, it is standard operating procedure for the Republican leadership in Congress.

I am hopeful that a significant number of Republicans will join our motion to instruct, being true to the letter that they sent opposing cuts, and protect Medicaid.

If Congress cuts Medicaid funding, States will be forced to reduce Medicaid coverage or benefits, jeopardizing needed services for low-income Americans. Over the last 4 years, more than 5 million people have joined the ranks of the uninsured. That number would more than double if it were not for the Medicaid program.

Make no mistake: Cutting Medicaid funds will increase the number of low-income Americans who are uninsured to partially pay for \$70 billion in tax cuts. Many of these uninsured poor Americans are children. I do not think that it really is a statement of our values in a budget to cut the health care for our children, for the poorest children in America, in order to give the tax cuts to the wealthiest people in America.

□ 1815

And yet at the end of the day, this budget will do all of that and increase our deficits. This is wrong. This is unjust. And I urge my colleagues to vote for this very important motion to instruct to return a conference report to this body with zero Medicaid cuts.

Mr. NUSSLE. Madam Speaker, I yield 4 minutes to the distinguished gentleman from Florida (Mr. PUTNAM), a member of the Budget Committee.

Mr. PUTNAM. Madam Speaker, I thank the chairman for yielding me some time. It is interesting to hear the comments of the distinguished minority whip and minority leader. But I am curious about something. I am curious how such a great party and the party that gave birth to some of the pillars of domestic policy in this country, has become the party of denial, the party of doing nothing.

When it comes to discussing Social Security reform, their answer is, do nothing. We have until 2040 or 2041.

When it came time to reform Medicare and even enrich and modernize the benefits available for seniors, their answer was vote against it. Do nothing.

And here today we are discussing a third pillar of domestic policy in this country that helps enrich the lives and provides a safety net for so many of those who are less fortunate in our society, and to put forward a reform proposal, and their answer is to do nothing.

Governor Mark Sanford, the Governor of the State of the ranking member of the Budget Committee, said the subject of Medicaid reform is important and timely. Our system, as currently configured, works fundamentally against the taxpayer and against the consumers in the form of Medicaid recipients and patients.

Governor Blunt of Missouri and Governor Granholm of Michigan agreed that the program is unsustainable.

Governor Vilsack of Iowa: "If you do the numbers, they just do not add up."

The South Dakota Governor, opening the legislative session, bemoaned the dramatic increases in how they are cutting into available funds for other folk, for other programs, and pointed out that the State health care program is growing at a 2 percent rate and Medicaid is going up at 18 percent, something that is unsustainable.

The Governors, on a bipartisan basis, have already, after this subject just coming forward weeks ago under the leadership of the gentleman from Iowa

(Chairman NUSSLE) and the Budget Committee, have already developed a plan that generates nearly \$9 billion in savings, and that is the first draft.

How is it that the great party that stood for great opportunities to help those in need has gone into denial and said, we will not change a thing. Everyone agrees the rate is unsustainable. Everyone agrees the costs are eating up State budgets. Everyone agrees that there is tremendous opportunity for savings that can then benefit other important programs; but our answer is to do nothing, or to outsource the job to a commission. And if the pattern holds, when the commission, if it is appointed, comes back with their findings, they will besmirch the reputation of the members of that commission, particularly those from their own party who were selected in one form or another by the President or by the Congress. That is what happened with the Social Security Commission and the distinguished Senator Moynihan. Why would this be any different?

Why would the party that is so responsible for originating these grand ideas be so irresponsible about making them relevant to people of my generation or the distinguished gentlelady from South Dakota's generation? Why is that? Why would you outsource the responsibility to provide a solution?

It is an important step that the House Budget Committee took in directing the Energy and Commerce Committee to take a hard look at these programs and find savings. It did not specify where they would come from. It did not tell them how to do their job. It directed them to take a hard look at where 55 percent of our budget today is going in the form of mandatory spending. And a huge part of that is in the Medicaid program.

I would encourage all of us to agree that there is a problem and move forward with some commonsense reforms that include saving the taxpayers money when possible.

Ms. HERSETH. Madam Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT), ranking member of the Budget Committee.

Mr. SPRATT. Madam Speaker, let me say in response to the last speaker that this party proudly presented a budget resolution that brought the budget to balance in the year 2012 and did not do it on the backs of the most deserving in our country, the sick and the elderly who depend upon Medicaid.

And lest there be some misunderstanding, this budget makes the deficit worse, not better, because it calls for \$106 billion in additional tax cuts. And the primary purpose and function and reason for these Medicaid cuts is to diminish the \$106 billion so it does not swell the deficit any more grossly out of proportion than it already is. This does not go to the bottom line and reduce the bottom line at all. It leaves us with a bigger deficit because it only partially offsets the \$106 billion in tax reduction that the resolution also calls

for. So it is not necessary. And that is recognized by the 44 Republican House Members who signed the letter urging that this resolution not contain any cuts in Medicaid.

Mr. NUSSLE. Madam Speaker, I yield myself as much time as I may consume.

I want to make sure people are, and Members are, listening to this debate and are reading the language, because again, if you want to come down here and vote politics again, you want to put out your press releases and fax machines are going whizzing around, hey, knock yourselves out.

But we have got a job to do down here, and we should read the language in front of us. And, again, it says that we should not report a reconciliation bill that achieves spending reductions. I just want to make sure people understand that, because I want to give you the actual numbers for Medicaid. If you are bored about numbers, turn down the sound because I am about to quote some numbers. But this is serious business.

I want to tell you what the Medicaid program is going to spend over the next 10 years. And I want you to listen to the numbers and the increases. This year we are going to spend \$183 billion, which is almost a 4 percent increase from last year; \$190 billion the next year, \$202 billion. It goes up: \$220. It goes up by 9 percent that year; \$239 billion, goes up by almost 9 percent that year. \$260 billion by 2010. By 2010, \$260 billion. That is almost as much as we are spending on national defense right now. \$282 billion, \$304 billion. It goes up every single one of those years. Out of that \$1.1 trillion or more, it is actually a little bit more than that I just quoted, we are saying in the House budget, even before we talk about a compromise with the other body, we are saying, instead of growing at an average rate of growth per year of 7½ percent, we want to grow at 7.3 percent.

We are going to grow every year. There are not spending reductions. Every single year of the House budget spending for Medicaid goes up. Every single year. Every year it goes up. There were no spending reductions.

Now, are we slowing down the growth?

Yes. And that is what the Governors have asked us to do. That is what they are coming here with proposals to accomplish. And their proposals that they have put forth, some have not even yet been scored, but the ones that have been scored by the Congressional Budget Office, which tries to add all that up and to find out what savings we have got, of the six main proposals that the bipartisan Governors have come forth with, they have already found \$8.6 billion, and three of the proposals have not even yet been scored.

So to say there is no savings, to say that we are hurting the most vulnerable, to suggest that nobody wants reform, again, I would ask colleagues to listen to the debate.

Will there be political rhetoric today?

Yes. Unfortunately, that will be true. The same happened in the welfare reform debate. Members came to the floor saying we should not do anything. We should not make changes, we should not reform the program. Let us keep what we have got. We changed the program, and people were helped.

No Member is going to come to the floor today and say the Medicaid program is perfect. I dare say no Member would come to the floor and tell you that. No Member is going to come to the floor today and say we cannot find savings.

Actual cuts? I can understand why they might come to the floor. But that is not what is being proposed.

But can we find savings? Every Member will come to the floor today and say of course. If you look at a program long enough that is 40 years old and has never been changed, of course you can find savings, particularly one that in a bipartisan way every Governor is either asking to get out of through a waiver or is coming to Washington to suggest that we need to reform.

No Member is going to come to the floor today and say we should do absolutely nothing, with just a few exceptions. There may be a few Members who try and do that. And there will be no Members who come to the floor today and suggest that the Governors in a bipartisan way have put forth ideas that are not worthy of consideration. We need to consider it.

Again, I am very happy that the Members on the other side have given us a motion to instruct conferees with a fail-safe, with a trapdoor that allows us to keep the momentum of reform building and allows them to make their political points. That is what they are allowed to do, is to come to the floor and make their political points. But thank goodness we still have a process that says we have got to move forward.

This is an unsustainable growth rate, that every year the program grows and grows and grows. There are no cuts.

Are there savings that we suggest? Yes. That was true in welfare reform. It is true as we look at Medicaid. And we need to look for the savings, because without reform the program not only will bankrupt itself, but more important than all of the talk about numbers and budgets and all of those things, it will begin to hurt people who truly are the most vulnerable that this program endeavors to assist.

So the commission approach that the gentlewoman from New Mexico (Mrs. WILSON) has put forward is a good idea. She has many cosponsors. That is not something that the budget itself can accomplish. But, certainly, we endorse that kind of an approach to look for ways to bring all interested parties together to find reform.

And I hope that instead of just putting out your faxes, which you will do, and make out your political statements, that is fine. We understand

that. But you will also, after all of the dust settles, come forward with your ideas the way Democratic Governors and Republican Governors have done, so that we can begin to resolve this issue and not just have rhetoric. We need results, not just the rhetoric of today. And that is what this budget accomplishes.

Madam Speaker, I reserve the balance of my time.

Ms. HERSETH. I would inquire as to the balance of our time remaining, Madam Speaker.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentlewoman from South Dakota has 15 minutes and the gentleman from Iowa has 4½ minutes.

Ms. HERSETH. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK), ranking member of the Health Subcommittee of the Committee on Ways and Means.

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

Mr. STARK. Madam Speaker, I guess I would be willing to suggest that the Medicaid programs are perfect, but for one major problem, and that would be the Republican Party in the Congress of the United States. What changes would I make? I would enforce the ethics rules to keep their hands out of the pockets of the lobbyists for the pharmaceutical industry who fly them about in jets and give them hundreds of millions of dollars in campaign contributions, which keeps them from allowing reimportation of drugs which would save many of the Governors a good bit of money on their Medicaid programs.

Changing the ethics rules that let people who might make unethical moves would be another great move, so it would prevent the managed care industry from getting extra money in the Medicare bill which would prevent the Republicans having the money to help Medicaid.

□ 1830

The Medicaid growth is due largely to the lousy job the President has done in job growth, the worst job since Herbert Hoover and the last Republican who had low job growth which increases the demand on Medicaid and the number of poor children and low-income workers who are forced to get their medical care through Medicaid because they are out of work through no fault of their own.

So if we would have decent ethics rules, if we would allow reimportation of drugs, if we would stop allowing the lobbyists to buy votes, we would be able to get the kinds of reform that are needed. The money is currently available in the excesses we are paying to the pharmaceutical industry and the excesses we are paying to the managed care industry which the chair of the Committee on the Budget understands very well, and that is the reform that is needed.

Change Congress. Make the Republicans behave in an ethical manner,

and you will have the money for Medicaid.

As Hubert Humphrey once said, "The moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped."

With all due respect for many of my colleagues, none of us could more eloquently make the case for Medicaid, which takes care of those in the dawn, twilight and shadows of life.

Yet the budget we are going to consider this week fails the moral test of government by requiring savings that will result in deep cuts in Medicaid and other programs that serve low-income, vulnerable populations.

A budget is a statement of priorities. Once again, we are faced with a Republican budget that put tax breaks for the rich and payola to corporate interests, ahead of basic government obligations.

Just as when we debated the Medicare bill in 2003, it appears we will be asked to vote on entitlement policy without adequate information as to its effect. We do not know, for example, how the cuts will be distributed across states and populations. How many people will lose coverage? How many states will be forced to raise taxes—and by how much.

To make up for the shortfall in funding and increased need?

The saddest part of this debate is that Republicans don't need to target Medicaid. We can raise more than the amount Republicans expect to extract from Medicaid and income security programs simply by eliminating the overpayments currently paid to Medicare HMOs.

We pay these plans more than we would for care provided through traditional Medicare. That's wrong!

In fact, MedPAC—the non-partisan Congressional advisory commission—has recommended that Congress enact changes that would result in "payment neutrality." Doing so would result in savings of more than \$21 billion over 5 years—more than enough to offset this budget's proposed Medicaid cuts.

Sadly, I doubt Republicans will go after this low-hanging fruit. It would evoke howls of protest from their contributors. Consider this budget a word of warning to individuals in the dawn, twilight and shadows of life.

Those who run on a moral values platform should consider that when they cast their votes on the budget this week.

Vote for the Spratt Motion to Instruct, and against the Resolution itself later this week.

Ms. HERSETH. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPs).

Mrs. CAPPs. Madam Speaker, I rise in support of the Herseth motion to instruct conferees.

The House-passed budget cuts, \$20 billion for Medicaid. It denies States, health care providers, and low-income working families \$20 billion for health care services they vitally need. While closing loopholes and fighting waste, fraud, and abuse is important, there is no way it is going to save near that amount. As our colleague from South Dakota has forcefully stated, a clear

majority of the Congress opposes these cuts, and for good reason.

Medicaid provides health care to 52 million low-income children, pregnant women, parents and the elderly. It is a critical source of acute and long-term care for 13 million elderly and disabled. These are the people who would be affected by cutting billions out of Medicaid. Since the President took office, the number of uninsured has increased by 5.2 million. Medicaid enrollment grew by 6 million over the same period, covering many people who would otherwise have been uninsured. Even so, Medicaid costs have grown about half as fast as private health care insurance premiums.

Between 2000 and 2003, Medicaid per capita spending went up by 6.9 percent, while private insurance premiums went up almost twice that amount, 12.6 percent. And the growth in costs we have seen as a result of the skyrocketing health costs this President has allowed, not Medicaid itself.

If these cuts in Medicaid are made, the ranks of the uninsured are surely going to increase even more, weakening our economy, and health care would be more expensive because of fewer regular check-ups and preventative measures and a rise of emergency room procedures. That is why the National Governors Association opposes these cuts. It is why faith-based organizations across the board oppose these cuts. Organizations like the March of Dimes, the National Association of Children's Hospitals, the American Academy of Pediatrics and the AARP all oppose these cuts. That is why a majority of the Congress opposes these cuts.

I urge my colleagues to vote for this motion. Tell the conferees to remove Medicaid cuts from this budget.

Mr. NUSSLE. Madam Speaker, who has the right to close?

The SPEAKER pro tempore (Mrs. BIGGERT). The proponent has the right to close.

Mr. NUSSLE. Madam Speaker, I am the final speaker so I will reserve the balance of my time.

Ms. HERSETH. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I urge my colleagues to support the Herseth motion to instruct; and I thank the gentlewoman for her leadership as we stand with seniors, with disabled Americans, with working families, and with children as we unite against these Medicaid cuts.

This Medicaid program is working but it is woefully underfunded by the Republican-controlled majority in this Congress. Medicaid accounts for 25 percent of Michigan's budget. With an aging population and a weak economy where manufacturing jobs are being shipped abroad, we can ill afford to cut this safety net out from under our most needy citizens.

This House resolution would require between 15 and \$20 billion in cuts in

Medicaid over 5 years. How can we ask between 1.8 to 2.5 million seniors, children, and low-income, hardworking families to sacrifice so there can be another \$106 billion in tax cuts?

We have a responsibility to look at ways to modernize Medicaid, to help our States and provide better health care, but it is heartless to subject our most vulnerable citizens to the meat-axe approach of this budget.

This motion to instruct conferees asks to reject the Medicaid cuts and calls for a bipartisan, independent Medicaid commission to address the concerns.

Michigan's Medicaid program has grown 30 percent in 4 years, serving roughly 1.4 million citizens or 1 out of every 7 Michiganders. Who are these citizens? In 2004 Michigan Medicaid paid for about 70 percent of all the nursing home care in our State, 40 percent of all the births in our State; 27 percent of the adults on Medicaid have a job and are working. The State is meeting the growth in beneficiaries while holding down spending to approximately 1.5 percent.

It is time to stand up for their most vulnerable citizens and against these Medicaid cuts. It is the right thing to do. It is the moral thing to do. Vote for the motion to instruct.

Ms. HERSETH. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Madam Speaker, 44 Members on the Republican side defied their party, not because some deep-pocketed lobbyist asked them to, but because fighting for people in desperate need was and is the right thing to do.

Medicaid health and long-term coverage is already limited to the impoverished elderly in nursing homes, the lowest-income children, and other vulnerable populations. My friend, the gentleman from Iowa (Mr. NUSSLE) expressed shock that Medicaid costs have actually grown. I think he must know that private insurance growth in this country is greater than 12 percent, Medicare costs are going up around 7 or 8 percent. Medicaid costs are going up only about 6 percent, half the pace of private insurance. There is no cost-effective alternative to Medicaid. Medicaid is the cost-effective alternative.

Medicaid cuts would not only jeopardize 5 million elderly Americans who would lack access to nursing home care without it, these cuts would place every nursing home resident, on Medicaid or not, in this country at risk. Each year nursing homes serve 2.5 million Americans. Medicaid covers 70 percent of these Americans.

The very health and safety of nursing home residents hinges on adequate Medicaid reimbursement. As it stands, Medicaid funding is insufficient to cover both those Americans who need nursing home services and those who need home and community-based care.

If the Federal Government makes further cuts in Medicaid, we must take responsibility in abandoning people who have no where else to turn.

Two-thirds of people in nursing homes have no living spouse or relative. The fact is we, the Medicaid program, the Federal Government, are all the family who cares for them that they have.

I hope that before any Member of this body votes against this motion, you might just imagine trading places with an elderly American in a nursing home. Put yourself in their shoes; then decide whether starving Medicaid is responsible for reprehensible.

Ms. HERSETH. Madam Speaker, I yield 3½ minutes to the gentleman from South Carolina (Mr. SPRATT).

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

Mr. SPRATT. Madam Speaker, I thank the gentlewoman for yielding me time.

Madam Speaker, the House and the Senate passed their own versions of budget resolutions on March 17. That was more than a month ago. I am glad that we finally are going to conference because that will bring the deliberations on the budget at least a bit out into the open. And if there is any aspect of the budget resolution that needs to be brought into the open and resolved with a public debate, all the stakeholders included, it is this provision that we have been discussing, and that is a provision that would cut Medicaid, over 5 years, by \$20 billion.

This motion to instruct conferees protects Medicaid from those spending cuts. Let me explain how those spending cuts would come about. The House-passed Republican budget resolution directs the Committee on Energy and Commerce to cut spending on programming within its jurisdiction by \$20 billion. But the Republican leadership has made it clear. The resolution calls for \$20 billion in cuts within the jurisdiction of the Committee on Energy and Commerce, but the Republican leadership has made it clear that those cuts should not include Medicare. That only leaves Medicaid.

It leaves Medicaid subject to \$20 billion in cuts over 5 years, per the language of the resolution passed by the House.

On our side of the aisle, all Democrats oppose unanimously the House budget resolution which included the Medicaid cut. Now, 44 Republicans have signed a letter urging that the Medicaid cut be dropped in the conference report. As a result, it appears that a majority of the House Members are on record against the Medicaid cuts. Medicaid cuts, therefore, should not be included if the conference report is to reflect the will of the majority in the conference report.

In the other body, the Senate, a majority also opposed the Medicaid cuts,

with 52 Senators, including every Democrat and 7 Republicans, voting to strike the Medicaid cuts from the Senate budget resolution and, instead, to set up a bipartisan commission.

So the purpose of this motion is to formalize the fact that both houses, a majority in both houses, are formally on record as opposed to the cut in Medicaid of \$20 billion. And this motion simply instructs the conferees, it does not suggest, it does not tell them to consider, it instructs the conferees to follow the Senate's lead and strike the reconciliation instructions that target Medicaid for funding cuts and, instead, put up \$1.5 million so we can have a fair bipartisan Medicaid commission to make these decisions.

I am glad that the chairman of the Committee on the Budget, the gentleman from Iowa (Mr. NUSSLE), has said that he will recommend to his members to vote for this resolution. I am disturbed to hear him emphasize that it is nonbinding.

Given the fact that the majority in both houses support the dropping of this \$20 billion cut in Medicaid, I think this should be, as the gentleman from Maryland (Mr. HOYER) put it, a moral mandate for the conferees. If it will bring back a conference report that reflects the will of the House, it should not include \$20 million in cuts in the Medicaid program.

Ms. HERSETH. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Madam Speaker, I would like to read a part of a letter from the National Governors Association to both the Speaker and the Democratic leader and Senator FRIST and Senator REID.

It says, "Reform, however, should not be part of a 2006 fiscal year budget reduction and reconciliation process, especially if it does nothing more than shift additional costs to the States."

We have a problem with health care costs in our country. Medicaid is one part of it. Medicare costs and private insurance and private health care is actually rising higher faster than Medicaid. Yet what we are doing with this budget resolution is actually penalizing senior citizens, and particularly children, because so much of our children's hospitals, so much of their funding comes from Medicaid because they deal with children totally.

I know in Houston, the Texas Medical Center, we have the Texas Children's Hospital, over 50 percent of their funding comes from Medicaid because they take care of children. We have to deal with health care costs, but let us not balance it on the backs of our children and our senior citizens.



NATIONAL GOVERNORS ASSOCIATION,  
December 22, 2004.

Hon. BILL FRIST,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. HARRY REID,  
Minority Leader-elect, U.S. Senate,  
Washington, DC.

Hon. J. DENNIS HASTERT,  
Speaker, House of Representatives,  
Washington, DC.

Hon. NANCY PELOSI,  
Minority Leader, House of Representatives,  
Washington, DC.

DEAR SENATOR FRIST, SENATOR REID, SPEAKER HASTERT, AND REPRESENTATIVE PELOSI: The Nation's Governors look forward to working closely with the Administration and Congress to reform Medicaid. Reforming the Medicaid system is the highest priority for the Governors, and will result in cost savings and efficiencies for both the federal and state governments. Reform, however, should not be part of a 2006 fiscal year budget reduction and reconciliation process, especially if it does nothing more than shift additional costs to states.

Governors are committed to administering the Medicaid program in a very cost-effective way, and as equal partners in the program have a tremendous incentive to continue doing so. This is reflected in the fact that the annual growth in Medicaid per capita spending has not exceeded approximately 4.5 percent per year, substantially below the growth rate of private health insurance premiums, which have averaged 12.5 percent per year for the last three years. Total Medicaid costs, however, are growing at a rate of 12 percent per year and now total Medicaid expenditures exceed that of Medicare primarily due to two major factors that are largely beyond the control of states. First, states, over the last four years, have experienced large case load increases of approximately 33 percent. Second, and far more costly to states, are the impacts of long-term care and of the dual eligible population. Medicaid currently accounts for 50 percent of all long-term care dollars and finances the care for 70 percent of all people in nursing homes. Furthermore, 42 percent of all Medicaid expenditures are spent on Medicare beneficiaries, despite the fact that they comprise a small percentage of the Medicaid caseload and are already fully insured by the Medicare program. Benefits for the dual eligible population should be 100 percent financed by Medicare.

We agree that maintaining the status quo in Medicaid is not acceptable. However, it is equally unacceptable in any deficit reduction strategy to simply shift federal costs to states, as Medicaid continues to impose severe strains on state budgets. Our most recent survey of states shows Medicaid now averages 22 percent of state budgets. This commitment has caused a strain on funding for other crucial state responsibilities. These funding challenges will become more acute as states absorb new costs to help implement the Medicare Modernization Act for the millions of dual eligible beneficiaries.

We look forward to working with you on Medicaid reform.

Sincerely,

GOVERNOR MARK R.

WARNER,  
Chairman.

GOVERNOR MIKE HUCKABEE,  
Vice Chairman.

Ms. HERSETH. Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, those who actually administer the Medicaid program, our State Governors, have clearly told us

in a bipartisan way that Medicaid must be reformed.

Wake up.

For those of you who are about to vote on this motion, this is a good motion. What it does is it says it is time to reform the program. It is time to consider the proposals that the Governors have put forth in a bipartisan way. They have clearly told us that their hands have been tied.

□ 1845

Their hands have been tied, Madam Speaker, by a program that is inefficient. It is ridiculously out of date, a health care delivery system that has not and will not under its current structure deal with the demands of the 21st century.

There is not one Governor that is suggesting do nothing. There is not one Member on the Republican side of the aisle that is suggesting do nothing. The 44 Members who signed the letter saying we are concerned about the future of Medicaid, they are not saying do nothing.

Everyone who is interested in the reform of this program understands that the budget this year gives us a schedule and an opportunity to finally get our arms around the Medicaid program.

I understand that there are going to be all sorts of political press releases put out about gouging and cutting and all sorts of things like that; but if anyone is interested in the actual technical language of the budget, they will discover that every single year the program under the House budget grows, every year.

What we are suggesting is that, with reform, it does not have to grow as much. Instead of growing at 7.5 percent, it can grow at a level a little lower, maybe 7.3 percent or 7.4 percent. Every year it should still grow because there are vulnerable people, there are senior citizens, there are people with disabilities who rely on this program. Our States rely on this program. We rely on this program in order to meet the needs of many people in this country who cannot help themselves.

Do not let anybody fool my colleagues. No one came to the floor today in support of this motion and said the program's perfect; the Governors are wrong; we do not like what they came up with; we do not think we should reform the program.

In fact, let us look at the reforms they have come up with. They have said let us restructure the pharmacy reimbursements to more closely align with the Medicaid pharmacy payments and pharmacy costs. That alone will save \$5 billion. Bipartisan support from the Governors. I dare say we could support that here today.

Second proposal, revising what is called "asset transfer." That will save the government \$1.4 billion. Bipartisan support by the Governors.

Please do not come to the floor or issue press releases today that says do

nothing. I understand my colleagues want to make a political point. That is fine. That is what motions to instruct conferees often do, but we are going to vote on a budget later on this week that says it is time to do something, it is time to reform the program, it is time to save a little bit of money and improve a program that is for our most deserved people, people who cannot help themselves. This is something we can do in a bipartisan way.

The same way Governors in a bipartisan way have come forward with their ideas, I would invite all Members to let their members of the Committee on Energy and Commerce know what their ideas are because we are going to go forward with reform. It is not going to actually cut any money. It is going to find savings. It is going to improve a program. It is going to reform it.

If the gentlewoman, who is the proponent of this motion, thinks the program is perfect, let her say so. If she thinks that we cannot find any savings, let her say so. If she thinks the Governors are wrong, let her say so. But no Member has come to the floor to say that yet today.

So that is why we should support this motion and move the budget forward to reform the Medicaid program and save some money as well.

Ms. HERSETH. Madam Speaker, I yield myself such time as I may consume.

I want to thank all of my colleagues who spoke in support of this motion to instruct conferees, including the gentleman from Iowa (Chairman NUSSLE) and his willingness to encourage his Republican colleagues to support this important motion.

In response to the closing of the gentleman from Iowa, I do not stand here today, nor do my colleagues, suggesting that we do nothing. I do not stand here today suggesting we cannot find savings. I do not stand here today suggesting that we cannot find a way, in a bipartisan manner, to reform Medicaid.

To the extent that there are press releases that go out to constituents who will be breathing a sigh of relief, from Governors to health care providers, to advocates of disabled citizens and the elderly and children, it will be that we found agreement in this body to supplement the important work of the Governors across this country to undertake real reform, to find those savings but not to let arbitrary cuts drive the reform; and that is exactly what the House budget resolution did. It is exactly what this motion to instruct conferees attempts to set right.

Those in my generation understand that we cannot do nothing, whether it comes to Social Security reform or Medicaid reform; but we also understand that the facts speak for themselves, that we have time to do this right, rather than to work so fast and to let arbitrary cuts of \$20 billion over 5 years drive the reform; that it should truly have a commission and the \$1.5

million today this motion to instruct would encourage to have set aside in the reserve fund to have a bipartisan commission undertake this important task of reform.

Mr. HOLT. Mr. Speaker, I voted against the FY2006 Concurrent Budget Resolution that was reported by the House Budget Committee and narrowly passed the House on a 218–214 vote last month. I did so for a variety of reasons.

First, President Bush and the majority party in this Congress want us to keep borrowing against our future and that of our children, and perhaps their children. The budget deficit for this year is a record \$427 billion. We added \$114 billion to the deficit in February, the first time it has ever gone over \$100 billion in one month. This is how we have added more to the national debt in the past four years than in the prior two centuries of our nation's history. Therefore, a vote in favor of this budget resolution is a vote for more "borrow and spend" policies that are responsible for our country's current fiscal plight.

Second, the House-passed budget plan shortchanges many Americans who are most deserving or in need of help, including our veterans, children, and elderly. At the same time, it slashes funding for many of our nation's important priorities—education, healthcare, AM-TRAK and alternative transportation and energy initiatives, homeland security, environmental protection, job training, research and development, and small business innovation.

Let me cite a few glaring examples.

The House-passed budget cuts veterans' health care by \$14 billion below what is currently needed over the next five years. These cuts can only be achieved by imposing new fees for veterans's healthcare, or by reducing veterans' benefits such as disability pay, pension benefits, or education benefits.

It actually cuts funding for education programs by \$2.5 billion for next fiscal year relative to Fiscal Year 2005, and \$38 billion over the next five years below what is needed to maintain the status quo. It actually matches the budget President Bush sent to Congress last month, which called for the elimination of 48 education programs worth \$4.3 billion. These cuts will include \$1.3 billion less for vocational education, as well as less funding for elementary, secondary, and college aid programs.

It also fails to protect and strengthen Social Security. It calls for spending every penny of the Social Security Trust Fund surplus to continue to help finance record deficits and continued tax breaks for the wealthiest Americans. Unlike the alternative budget plan I voted for, the House-passed budget plan contains no budget enforcement mechanisms to protect the current surplus Social Security Trust Fund. Instead, President Bush and the supporters of this budget resolution advocate a Social Security privatization scheme that would weaken Social Security upon which so many elderly and disabled Americans depend just to make ends meet. In fact, there is not one cent in the House-passed budget plan to meet any of the \$754 billion price tag needed between now and 2015 to create private accounts.

Third, the House-passed budget resolution is incomplete and misleading. It does not address the ongoing costs of the U.S. military occupation of Iraq and the war on terrorism.

Then, the budget also invokes an assumption that economic growth will reduce deficits. In fact, it fails to show any deficit figures at all after 2010. Budgets should not be based on wishful thinking.

How is that we confront both increased deficits and serious program cuts in the same budget? Because the majority party in this Congress continues to push tax cuts for those who need them the least. The results are growing inequity in American society and mounting anxiety in financial markets.

I believe this Congress can and should make better choices and adopt a much more balanced and fiscally responsible alternative budget plan—one that more closely reflects the values of most Americans, the sacrifices of our men and women in uniform, and the aspirations of our children. That is why I voted for the alternative budget plan offered by my colleague, U.S. Representative JOHN SPRATT of South Carolina. Had it been adopted, it would have insisted upon more fiscal discipline with budgets that pay as you go this year and beyond. It would have offered more help and hope for all Americans to achieve greater financial security. That means investing more in the American people and in deserving programs to help create good-paying jobs, improve education, lower healthcare costs, make college more affordable, grow small businesses, keep faith with our veterans and military families, protect our homeland, and promote environmental sustainability.

In so doing, we could build upon what has worked in the past when our economy was growing by leaps and bounds and creating millions of new jobs, as recently as the 1990s. We could abandon the fraud of supply-side economics, once and for all, step up, and reassert control over shaping our preferred economic future—one that offers more good jobs, a higher standard of living, and real economic opportunity for all of the American people. Sadly, this budget resolution takes us farther down the wrong track.

If we want to strengthen our economy again, in the future, if we want to create new, good-paying jobs for all of our people, and promote broad-based, sustainable economic development, then I believe we must become more creative and provide more support from the public and private sector for cutting-edge research and development. We have to stop borrowing and spending. We have to stop eating our seed corn. We have to provide increased and more sustained support from the public and private sectors for basic research and development.

Up to now, America has always been a nation of explorers, creators, and inventors. We need to regain that edge and ride a new wave of research and follow-on commercial development into a new age of economic growth and prosperity. But the budget resolution approval in the House last week does none of this. The supporters of the Republican budget plan don't want to keep faith and invest in the American people, increase federal support for research, development, and entrepreneurial drive, and rebuild American competitiveness in the global economy. If they did, they could not in good conscience have voted for the skewed priorities of the recently-approved budget resolution and the Draconian, counterproductive cuts it will dictate.

Ms. HERSETH. 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 instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from South Dakota (Ms. HERSETH).

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

Ms. HERSETH. 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, further proceedings are postponed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: motion to instruct on H.R. 1268, de novo; motion to instruct on H. Con. Res. 95, by the yeas and nays.

Any electronic votes will be conducted as 15-minute votes.

#### MOTION TO INSTRUCT CONFEREES ON H.R. 1268, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005

The SPEAKER pro tempore. The pending business is the question on the motion to instruct conferees on H.R. 1268.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from Wisconsin (Mr. OBEY).

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

Mr. SABO. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 4, not voting 13, as follows:

[Roll No. 133]

YEAS—417

Abercrombie	Berkley	Boustany
Ackerman	Berman	Boyd
Aderholt	Berry	Bradley (NH)
Akin	Biggert	Brady (PA)
Alexander	Bilirakis	Brown (OH)
Allen	Bishop (GA)	Brown (SC)
Andrews	Bishop (NY)	Brown-Waite,
Baca	Bishop (UT)	Ginny
Bachus	Blackburn	Burgess
Baird	Blumenauer	Burton (IN)
Baker	Blunt	Butterfield
Baldwin	Boehert	Buyer
Barrett (SC)	Boehner	Calvert
Barrow	Bonilla	Camp
Bartlett (MD)	Bonner	Cannon
Barton (TX)	Bono	Cantor
Bass	Boozman	Capito
Bean	Boren	Capps
Beauprez	Boswell	Capuano
Becerra	Boucher	Cardin

Cardoza	Hayes	Melancon	Shaw	Sullivan	Walsh	Cummings	Kelly	Price (GA)
Carnahan	Hayworth	Menendez	Shays	Sweeney	Wamp	Cunningham	Kennedy (MN)	Price (NC)
Carson	Hefley	Mica	Sherman	Tancredo	Wasserman	Davis (LA)	Kennedy (RI)	Pryce (OH)
Carter	Hensarling	Michaud	Sherwood	Tanner	Schultz	Davis (CA)	Kildee	Putnam
Case	Heger	Millender-	Shimkus	Tauscher	Waters	Davis (FL)	Kind	Rahall
Castle	Herseth	McDonald	Shuster	Taylor (MS)	Watson	Davis (IL)	King (NY)	Ramstad
Chabot	Higgins	Miller (FL)	Simmons	Taylor (NC)	Watt	Davis (KY)	Kirk	Rangel
Chandler	Hinchee	Miller (MI)	Simpson	Terry	Waxman	Davis (TN)	Kline	Regula
Chocola	Hinojosa	Miller (NC)	Skelton	Thomas	Weiner	Davis, Jo Ann	Knollenberg	Rehberg
Clay	Hobson	Miller, Gary	Slaughter	Thompson (CA)	Weldon (FL)	Davis, Tom	Kucinich	Reichert
Cleaver	Hoekstra	Miller, George	Smith (NJ)	Thompson (MS)	Weldon (PA)	DeFazio	Kuhl (NY)	Renzi
Clyburn	Holden	Mollohan	Smith (TX)	Thornberry	Weller	DeGette	LaHood	Reyes
Cole (OK)	Holt	Moore (KS)	Smith (WA)	Tierney	Wexler	Delahunt	Langevin	Reynolds
Conaway	Honda	Moore (WI)	Snyder	Towns	Whitfield	DeLauro	Lantos	Rogers (LA)
Conyers	Hostettler	Moore (KS)	Sodrel	Turner	Wilson (NM)	DeLay	Larsen (WA)	Rogers (KY)
Cooper	Hoyer	Moran (VA)	Solis	Udall (CO)	Wilson (SC)	Dent	Larson (CT)	Ros-Lehtinen
Costa	Hulshof	Murphy	Souder	Udall (NM)	Wolf	Dicks	Latham	Ross
Costello	Hunter	Musgrave	Spratt	Upton	Woolsey	Dingell	LaTourette	Royal-Ballard
Cox	Hyde	Myrick	Stark	Van Hollen	Wu	Doggett	Leach	Ruppersberger
Cramer	Inglis (SC)	Nadler	Stearns	Velázquez	Wynn	Doolittle	Levin	Rush
Crenshaw	Inslee	Napolitano	Strickland	Visclosky	Young (AK)	Doyle	Lewis (CA)	Ryan (OH)
Crowley	Israel	Neal (MA)	Stupak	Walden (OR)	Young (FL)	Drake	Lewis (GA)	Ryan (WI)
Cubin	Issa	Neugebauer				Dreier	Lewis (KY)	Ryun (KS)
Cuellar	Istook	Ney				Edwards	Lipinski	Sabo
Culberson	Jackson (IL)	Northup	Coble	Tiahrt		Ehlers	LoBiondo	Salazar
Cummings	Jackson-Lee	Norwood	Feeney	Tiberi		Emanuel	Lofgren, Zoe	Sánchez, Linda
Cunningham	(TX)	Nunes				Emerson	Lowey	T.
Davis (AL)	Jefferson	Nussle				Engel	Lucas	Sánchez, Loretta
Davis (CA)	Jindal	Oberstar	Brady (TX)	Harris	Rothman	English (PA)	Lungren, Daniel	Sanders
Davis (FL)	Johnson (CT)	Obey	Brown, Corrine	Hooley	Westmoreland	Eshoo	E.	Saxton
Davis (IL)	Johnson (IL)	Olver	Diaz-Balart, L.	Jenkins	Wicker	Etheridge	Lynch	Schakowsky
Davis (KY)	Johnson, E. B.	Ortiz	Diaz-Balart, M.	Lee		Evans	Maloney	Schiff
Davis (TN)	Johnson, Sam	Osborne	Gutierrez	Murtha		Everett	Manzullo	Schwartz (PA)
Davis, Jo Ann	Jones (NC)	Otter				Farr	Markey	Schwarz (MI)
Davis, Tom	Jones (OH)	Owens				Fattah	Marshall	Scott (GA)
Deal (GA)	Kanjorski	Oxley				Filner	Matheson	Scott (VA)
DeFazio	Kaptur	Pallone				Fitzpatrick (PA)	Matsui	Sensenbrenner
DeGette	Keller	Pascarell				Foley	McCarthy	Serrano
Delahunt	Kelly	Pastor				Forbes	McCaul (TX)	Shaw
DeLauro	Kennedy (MN)	Paul				Ford	McCollum (MN)	Shays
DeLay	Kennedy (RI)	Payne				Fortenberry	McCotter	Sherman
Dent	Kildee	Pearce				Fossella	McCreery	Sherwood
Dicks	Kilpatrick (MI)	Pelosi				Frank (MA)	McDermott	Shimkus
Dingell	Kind	Pence				Frelinghuysen	McGovern	Shuster
Doggett	King (IA)	Peterson (MN)				Gallegly	McHugh	Simmons
Doolittle	King (NY)	Peterson (PA)				Gerlach	McIntyre	Simpson
Doyle	Kingston	Petri				Gibbons	McKeon	Skelton
Drake	Kirk	Pickering				Gilchrest	McKinney	Slaughter
Dreier	Kline	Pitts				Gillmor	McMorris	Smith (NJ)
Duncan	Knollenberg	Platts				Gohmert	McNulty	Smith (TX)
Edwards	Kolbe	Poe				Gonzalez	Meehan	Smith (WA)
Ehlers	Kucinich	Pombo				Goode	Meek (FL)	Snyder
Emanuel	Kuhl (NY)	Pomeroy				Goodlatte	Meeks (NY)	Sodrel
Emerson	LaHood	Porter				Gordon	Melancon	Solis
Engel	Langevin	Portman				Granger	Menendez	Spratt
English (PA)	Lantos	Price (GA)				Graves	Mica	Stark
Eshoo	Larsen (WA)	Price (NC)				Green (WI)	Michaud	Strickland
Etheridge	Larson (CT)	Pryce (OH)				Green, Al	Millender-	Stupak
Evans	Latham	Putnam				Green, Gene	McDonald	Sullivan
Everett	LaTourette	Radanovich				Grijalva	Miller (MI)	Sweeney
Farr	Leach	Rahall				Hall	Miller (NC)	Tanner
Fattah	Levin	Ramstad				Harman	Miller, Gary	Tauscher
Ferguson	Lewis (CA)	Rangel				Hart	Miller, George	Taylor (MS)
Filner	Lewis (GA)	Regula				Hastings (FL)	Mollohan	Thompson (CA)
Fitzpatrick (PA)	Lewis (KY)	Rehberg				Hastings (WA)	Moore (KS)	Thompson (MS)
Flake	Linder	Reichert				Hayes	Moore (WI)	Tierney
Foley	Lipinski	Renzi				Hefley	Moran (KS)	Towns
Forbes	LoBiondo	Reyes				Herseth	Moran (VA)	Turner
Ford	Lofgren, Zoe	Reynolds				Higgins	Nadler	Udall (CO)
Fortenberry	Lowey	Rogers (AL)				Hinchee	Napolitano	Udall (NM)
Fossella	Lucas	Rogers (KY)				Hinojosa	Neal (MA)	Upton
Foxx	Lungren, Daniel	Rogers (MI)				Hobson	Ney	Van Hollen
Frank (MA)	E.	Rohrabacher				Hoekstra	Northup	Velázquez
Franks (AZ)	Lynch	Ros-Lehtinen				Holden	Nussle	Visclosky
Frelinghuysen	Mack	Ross				Holt	Oberstar	Walden (OR)
Gallegly	Maloney	Roybal-Allard				Honda	Obey	Walsh
Garrett (NJ)	Manzullo	Royce	Abercrombie	Blunt	Capuano	Hoyer	Olver	Wasserman
Gerlach	Marchant	Ruppersberger	Ackerman	Boehlert	Cardin	Hulshof	Ortiz	Schultz
Gibbons	Markey	Rush	Aderholt	Boehner	Cardoza	Hyde	Osborne	Waters
Gilchrest	Marshall	Ryan (OH)	Alexander	Bonner	Carnahan	Inslee	Owens	Watson
Gillmor	Matheson	Ryan (WI)	Allen	Bono	Carson	Issa	Oxley	Watt
Gingrey	Matsui	Ryun (KS)	Andrews	Boozman	Case	Issa	Pallone	Waxman
Gohmert	McCarthy	Sabo	Baca	Boren	Castle	Jackson (IL)	Pascarell	Weiner
Gonzalez	McCaul (TX)	Salazar	Bachus	Boswell	Chandler	Jackson-Lee	Pastor	Weldon (PA)
Goode	McCollum (MN)	Sánchez, Linda	Baird	Boucher	Chocola	(TX)	Payne	Weller
Goodlatte	McCotter	T.	Baldwin	Boyd	Clay	Jefferson	Pelosi	Wexler
Gordon	McCreery	Sánchez, Loretta	Barrow	Bradley (NH)	Cleaver	Jindal	Peterson (MN)	Whitfield
Granger	McDermott	Sanders	Bass	Brady (PA)	Clyburn	Johnson (CT)	Peterson (PA)	Wilson (NM)
Graves	McGovern	Saxton	Bean	Brown (OH)	Coble	Johnson (IL)	Petri	Wilson (SC)
Green (WI)	McHenry	Schakowsky	Beauprez	Brown (SC)	Cole (OK)	Johnson, E. B.	Pickering	Wolf
Green, Al	McHugh	Schiff	Becerra	Brown-Waite,	Conyers	Jones (NC)	Platts	Woolsey
Green, Gene	McIntyre	Schwartz (PA)	Berkley	Ginny	Cooper	Jones (OH)	Pombo	Wu
Grijalva	McKeon	Schwarz (MI)	Berman	Burton (IN)	Costa	Kanjorski	Pomeroy	Wynn
Gutknecht	McKinney	Scott (GA)	Berry	Butterfield	Costello	Kaptur	Porter	Young (AK)
Hall	McMorris	Scott (VA)	Biggart	Calvert	Cramer	Keller	Portman	Young (FL)
Harman	McNulty	Sensenbrenner	Bilirakis	Camp	Crenshaw			
Hart	Meehan	Serrano	Bishop (GA)	Cantor	Crowley			
Hastings (FL)	Meek (FL)	Sessions	Bishop (NY)	Capito	Cubin	Akin	Barrett (SC)	Barton (TX)
Hastings (WA)	Meeks (NY)	Shadegg	Blumenauer	Capps	Cuellar	Baker	Bartlett (MD)	Bishop (UT)

NAYS—4

NOT VOTING—13

□ 1916

Messrs. COX, CULBERSON, LINDER and MCHENRY changed their vote from “nay” to “yea.”

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**MOTION TO INSTRUCT CONFEREES ON H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2006**

The SPEAKER pro tempore (Mr. THORNBERRY). The pending business is the question on the motion to instruct conferees on H. Con. Res. 95, on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from South Dakota (Ms. HERSETH).

The vote was taken by electronic device, and there were—yeas 348, nays 72, not voting 14, as follows:

[Roll No. 134]  
YEAS—348

NAYS—72

Blackburn	Hensarling	Paul
Bonilla	Herger	Pearce
Boustany	Hostettler	Pence
Burgess	Hunter	Pitts
Buyer	Inglis (SC)	Poe
Cannon	Istook	Radanovich
Carter	Johnson, Sam	Rogers (MI)
Chabot	King (IA)	Rohrabacher
Conaway	Kingston	Royce
Cox	Kolbe	Sessions
Culberson	Linder	Shadegg
Deal (GA)	Mack	Souder
Duncan	Marchant	Stearns
Feeney	McHenry	Tancredo
Ferguson	Miller (FL)	Taylor (NC)
Flake	Murphy	Terry
Foxx	Musgrave	Thomas
Franks (AZ)	Myrick	Thornberry
Garrett (NJ)	Neugebauer	Tiahrt
Gingrey	Norwood	Tiberi
Gutknecht	Nunes	Wamp
Hayworth	Otter	Weldon (FL)

**NOT VOTING—14**

Brady (TX)	Harris	Murtha
Brown, Corrine	Hooley	Rotman
Diaz-Balart, L.	Jenkins	Westmoreland
Diaz-Balart, M.	Kilpatrick (MI)	Wicker
Gutierrez	Lee	

□ 1934

Messrs. HAYWORTH, MURPHY, and HERGER changed their vote from “yea” to “nay.”

So the motion to instruct 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. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber today. I would like the record to show that, had I been present, I would have voted “yea” on rollcall votes 133 and 134.

**APPOINTMENT OF CONFEREES ON H.R. 1268, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005**

The SPEAKER pro tempore (Mr. THORNBERY). Without objection, the Chair appoints the following conferees: Messrs. LEWIS of California, YOUNG of Florida, REGULA, ROGERS of Kentucky, WOLF, KOLBE, WALSH, TAYLOR of North Carolina, HOBSON, BONILLA, KNOLLENBERG, OBEY, MURTHA, DICKS, SABO, MOLLOHAN, VISCLOSKY, Mrs. LOWEY, and Mr. EDWARDS.

There was no objection.

**APPOINTMENT OF CONFEREES ON H. Con. Res. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2006**

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. NUSSLE, RYUN of Kansas, and SPRATT.

There was no objection.

**APPOINTMENT AS MEMBER TO TICKET TO WORK AND WORK INCENTIVES ADVISORY PANEL**

The SPEAKER pro tempore. Pursuant to section 101(f)(3) of the Ticket to

Work and Work Incentives Improvement Act of 1999, (42 U.S.C. 1320b-19), and the order of the House of January 4, 2005, the Chair announces the Speaker’s appointment of the following Member on the part of the House to the Ticket to Work and Work Incentives Advisory Panel:

Mr. J. Russell Doumas, Columbia, Missouri, to a 4-year term.

**PERMITTING OFFICIAL PHOTOGRAPHS OF HOUSE OF REPRESENTATIVES TO BE TAKEN WHILE HOUSE IS IN SESSION**

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 232) permitting official photographs of the House of Representatives to be taken while the House is in actual session on a date designated by the Speaker, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

Ms. MILLENDER-MCDONALD. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Michigan to explain the purpose of this resolution.

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I rise in support of House Resolution 232. This is a resolution permitting the taking of the official photographs of the House of Representatives. It is a biennial official photo of the House of Representatives. It has really become a tradition for this institution. It not only is a keepsake for the Members, but it also serves as a very valuable and important historical memento as well and a record for future generations. The picture actually will be taken tomorrow morning, I think right after 1-minute speeches. And with that, Mr. Speaker, I ask for support of this resolution.

Ms. MILLENDER-MCDONALD. Mr. Speaker, further reserving the right to object, I support this routine resolution required to authorize the official photographs of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 232

*Resolved*, That on such date as the Speaker of the House of Representatives may designate, official photographs of the House may be taken while the House is in actual session. Payment for the costs associated with taking, preparing, and distributing such photographs may be made from the applicable accounts of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

**REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF CERTAIN COMMITTEES OF HOUSE OF REPRESENTATIVES IN ONE HUNDRED NINTH CONGRESS**

Mrs. MILLER of Michigan, from the Committee on House Administration, submitted a privileged report (Rept. No. 109-54) on the resolution (H. Res. 224) providing for the expenses of certain committees of the House of Representatives in the One Hundred Ninth Congress, which was referred to the House Calendar and ordered to be printed.

**REMOVAL OF NAME OF MEMBERS AS COSPONSORS OF H.R. 1762**

Mr. CANTOR. Mr. Speaker, I ask unanimous consent to have the following names removed as cosponsors of H.R. 1762: Mr. FEENEY of Florida, Mrs. JOHNSON of Connecticut, and Mr. JINDAL of Louisiana.

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

There was no objection.

**ETHICS PROBLEMS IN CONGRESS**

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

Mr. BROWN of Ohio. Mr. Speaker, in recent weeks half a dozen Ohio newspapers have used the following terms to describe recent ethics problems proliferating through the United States Congress: acts of hypocrisy; national moral lapse; disgrace; dirty moves; ethically corrupt; unethical behavior; multi-indictment-producing investigation; illegal political fundraising; campaign money spigot; the very appearance of evil; and, finally, Mr. Speaker, sugar daddy.

Mr. Speaker, the people of this Nation deserve better from the People’s house.

**DELAY MUST STEP DOWN**

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

Ms. WOOLSEY. Mr. Speaker, my constituents continue to contact me about the charges mounting over the actions of some Republicans in the House. In fact, one constituent referred to an “embarrassing and growing mess.” Over the past year, I have received letters revealing disgust, anger at the Republicans and their disregard for House rules.

Just this past week, a constituent wrote me from Mill Valley, California, saying, “I am tired of all the useless finger pointing. I am particularly tired of hearing one Republican in particular go on about the ‘politics of personal destruction,’ which he seems to practice

daily even as he blames it on his enemies.”

My constituents share the views of many citizens across the Nation. They want an unbiased investigation into these ethics matters. They want to know that politicians are listening to their hearts, not the lobbyists that are paying for their meals.

It is time for the Republicans to own up to abuses of the House rules. The American people deserve no less.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### 90TH COMMEMORATION OF THE ARMENIAN GENOCIDE

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. Mr. Speaker, I rise this evening to commemorate the 90th anniversary of the Armenian genocide, which actually took place on April 24, last Sunday. As the first genocide of the 20th Century, it is imperative that we remember this atrocity and collectively demand reaffirmation of this crime against humanity.

Just this week I was joined by my co-chair of the Armenian Caucus and 176 additional Members of Congress in sending yet another joint congressional letter to President Bush urging him to use the word “genocide” in his April 24 statement. With over 178 signatures, which is 9 more than last year, the message in this letter is loud and clear: that 90 years is too long to wait for justice to be served and proper recognition to be made.

Mr. Speaker, I received today a copy of President Bush's statement with regard to the April 24 commemoration, and, unfortunately, once again he did not use the term “genocide.” And I think that is unfortunate because it has been consistently the case that this Congress and the United States in general over the last 90 years has referred to the Armenian genocide as a genocide, and it is unfortunate that the President continues not to use the term.

This past Wednesday the Caucus, with the cooperation of the Armenian American community, organized a commemorative event on Capitol Hill in the Cannon Caucus room. We were joined by over 350 members of the community as well as numerous Senators and Members of Congress who all spoke on one message: that the United States owes it to the Armenian American community, to the 1.5 million that were massacred in the genocide, and to its own history to reaffirm what is a fact.

As we saw on Wednesday night and as we have seen time and time again, the

United States has a proud history of action and response to the Armenian genocide. During a time when hundreds of thousands were left orphaned and starving, a time when a nation was on the verge of complete extermination, the U.S. chose to step up. Individuals like Ambassador Morgenthau and Leslie Davis witnessed the atrocities firsthand, and their conscience did not allow them to simply look the other way. It is now time that the U.S. stops looking the other way, reaffirms what we all know to be fact, and properly recognizes the Armenian genocide.

I wanted to mention that I was very proud earlier this year when our Ambassador to Armenia, Ambassador Evans, referred to the Armenian genocide as a genocide, and it was unfortunate that he was essentially rebuked by the State Department because of the words he used. Because the fact of the matter is that when we talk about the Armenian genocide, we are simply acknowledging historical fact, and we feel very strongly that if at the time when the genocide occurred, the world and the United States, if we had taken more notice and had tried to prevent it, I think it would have served as a lesson so that the Nazi Holocaust against the Jews and so many other atrocities that took place in the 20th century would not have occurred. If we are going to see a situation in the future in this 21st century when we do not repeat the mistakes of the past, we must acknowledge the Armenian genocide.

We know even now, history in the last 100 years has witnessed more horrible episodes since the Armenian genocide. As we speak, the Sudanese Government is taking a page out of the Turkish Government's denial playbook and continuing the vicious cycle of genocide denial in what is happening in Darfur. If we are ever to live in a world where crimes do not go unpunished and fundamental human rights are respected and preserved, we must come to recognize the Armenian genocide, thus allowing for proper reparations and restitutions to be made.

I was very upset, Mr. Speaker, on Saturday when I read in the New York Times that the Turkish envoy to the United States continued to say that the only reason why Armenians and Americans wanted the genocide recognized was because they wanted restitution or they wanted reparations. That is simply not true. But it is also true that restitution and reparations must be made. For those who commit a state-sponsored genocide or a state-sponsored massacre, it is important that the state, in this case, Turkey, acknowledge that it occurred and that restitution and reparations are made, just as in the case with Germany in the case of the Nazi Holocaust against the Jews.

Mr. Speaker, I look forward to introducing a genocide resolution with my colleagues in the 109th Congress, and as we did in the 108th Congress and the

106th. We will do everything in our power to get legislation passed and reaffirm the U.S. record on the Armenian genocide. Today the United States has the profound responsibility of carrying on the tradition and the work of our predecessors in continuing to combat genocide whenever and wherever it takes place. We must show the world that individuals such as Ambassador Morgenthau did not stay quiet 90 years ago, and we in Congress certainly owe it to them not to stay quiet today.

Mr. BECERRA. Mr. Speaker, I rise today to commemorate the 90th anniversary of the Armenian Genocide. April 24, 2005 marked the day 90 years ago that began a bloody eight-year period during which 1.5 million Armenians lost their lives as a result of this tragic event.

We must take this opportunity to heal the wounds of those who survived this calamity, as well as the Armenian people as a whole. Let us officially acknowledge this regrettable moment in human history, as formal recognition is nearly four generations overdue. By finally closing this chapter, we would not only take positive steps towards normalizing relations between Turkey and Armenia, but also help to prevent future tragedies.

I would also like to take this opportunity to commend Armenian Americans nationwide for their contributions to our country. Through the preservation of their heritage, faith and traditions, Armenian Americans join the multitude of immigrants from many different cultures who contribute to the rich diversity we celebrate together as a Nation.

Mr. Speaker, woven deeply into the fabric of our culture, Americans stand for freedom and basic human rights for all. Let us further demonstrate our deep conviction for the ideals we hold dear in our resolute opposition to crimes against humanity and officially recognize the Armenian Genocide.

Mr. MARKEY. Mr. Speaker, today we gather to remember and commemorate the Armenian Genocide, one of the darkest chapters of World War I, and the first of the series of genocides we saw in the 20th Century.

The Armenian Genocide is sometimes called the “Forgotten Genocide.” In fact, as most of you know, back in 1939, prior to the invasion of Poland, Adolph Hitler argued that his plans for a Jewish holocaust would, in the end, be tolerated by the West, stating: “After all, who remembers the Armenians.” Who remembers the Armenians? Today, we provide an answer: We Do! We Remember!

We do so because it is important, indeed it is essential to remember and reflect upon these events, but we also do so because we know that the Armenian people today struggle on an ongoing basis to confront and surmount the legacies and the consequences of those dark days.

Consider, for a moment, what might have been.

At the end of the first World War, the American public was acutely aware of the atrocities that had been committed against the Armenian people from 1915 on—atrocities that we knew had resulted in the death of more than 1 million Armenians and left the remaining Armenian population starving and destitute.

At the time, U.S. Ambassador Henry Morgenthau reported that “When the Turkish

authorities gave the orders for these deportations, they were simply giving the death warrant to a whole race; they understood this well, and in their conversations with me, they made no particular attempt to conceal the fact."

A military mission headed by Major General James Harbord in 1919 had been sent to report on conditions in the region and make recommendations to U.S. policy makers. General Harbord sent a clear message about the defenselessness of the Armenians and the dangers they still faced.

By the time of the Paris Peace negotiations at the end of the War, President Wilson was committed to the notion of using the proposed League of Nations to help the Armenians. In a September 6, 1919 speech on the Treaty creating the League, he spoke of the Armenian Genocide, "When I think of words piled upon words, of debate following debate, when these unspeakable things that cannot be handled until the debate is over are happening, in these pitiful parts of the world, I wonder that men do not wake up to the moral responsibility of what they are doing. Great peoples are driven out upon a desert, where there is no food and can be none, and they are driven to die, and then men, women, and children thrown into a common grave, so imperfectly covered up that here and there is a pitiful arm stretched out to heaven, and there is no pity in the world. When shall we wake up to the moral responsibility of this great occasion?"

On May 24, 1920, Wilson proposed to create a U.S. mandate in Armenia, in which we would have sent in troops to maintain the peace and provide assistance to help the Armenian people establish a functioning government and economy.

But the proposed U.S. mandate never occurred. Republican Senator Henry Cabot Lodge from Massachusetts, the Chairman of the Senate Foreign Relations Committee, who earlier had championed the cause of the Armenians, refused to support President Wilson's proposed Mandate. Senator Lodge said at the time, "To invite this country to take charge of that crossroads of the nations in Armenia, to commit itself to sending its troops there for an indefinite period, and to bear the expenses involved for an indefinite period, is something for which I could never bring myself to vote." And on June 1, 1920, he, along with the other Republican isolationists in the Senate voted 34 to 43 and 34 to 41 against two Democratic amendments that would have fully or partially authorized the Mandate.

And so, Armenia was left on its own, open to attack from both Turkey and the Soviet Union. And the Armenians made a fateful decision. Rather than accept Turkish dominance and the prospect of additional killings, they signed an agreement with the Soviet leadership's point man in the Caucuses—a man named Josef Stalin—to join the Soviet Union. That fateful decision led them to more than 60 years of Armenian suffering under the yoke of the Communists.

So, as we all gather together to consider the legacy of the Armenian genocide and the Diaspora it created, it is also appropriate for America as a nation to consider what can be done to give something back to those who, by tragic circumstances, were forced to live through unspeakable atrocities during the Genocide only to then come under the control of a brutal Soviet rule.

Armenia today faces enormous economic and political challenges: It has hostile neighbors. It faces blockades that stifle trade and economic opportunities. It needs economic and military assistance.

There is much that the U.S. government can and should do to assist the Armenian people: We should grant Armenia Permanent Normal Trading Relations status, so as to facilitate the growth of trade and economic relations. We should provide Armenia with the economic and military assistance it needs to develop its economy and ensure its security. We should press for an end to the Turkish and Azerbaijani economic blockades.

The writer Milan Kundera once wrote that "The struggle of man against power is the struggle of memory against forgetting." There are those that would deny the Armenian Genocide, just as there are those that deny the reality of the Nazi Holocaust. In commemorating the Armenian Genocide, as we do this evening, we all collectively engage in that struggle of memory against forgetting. But we do this not only to remember the past, but to animate the future with a commitment to prevent such things from ever happening again, and to strive towards making a better future for the Armenian people, a people who have suffered so much.

In September of 1919, President Woodrow Wilson spoke of his vision of a future Armenia. He said, "Armenia is to be redeemed . . . So that at last this great people, struggling through night after night of terror, knowing not when they may come out into a time when they can enjoy their rights as free people that they never dreamed they would be able to exercise."

It has taken Armenia decades to reach a point where its people could enjoy their rights as a free people—the rights Wilson spoke of. Today, we have an opportunity to help ensure that they can build a better future. And so, I look forward to continuing to work with the Armenian-American community and Members of the Congressional Caucus on Armenia to address the issues facing this region, so that together we build something positive, something hopeful, something good for the future—a peaceful, prosperous Armenia with close ties to the United States.

Mr. COSTA. Mr. Speaker, I rise to commemorate the 90th anniversary of the Armenian Genocide.

The Armenian Genocide is fully documented in the U.S. archives and through an overwhelming body of firsthand, governmental, and diplomatic evidence. The only party denying the Armenian Genocide is the Turkish government.

As a young man, I remember learning about the Armenian genocide by listening to the experiences of the men and women who experienced it firsthand. Many of the survivors of this experience fled to the United States, and through time established communities throughout the country, including my district.

California is home to the largest Armenian-American population in the United States. The California State Assembly designated April 24, 1997 as "California Day of Remembrance for the Armenian Genocide of 1915–23, and for the Victims of the Sumgait Pogroms of 1988 and Baku Riots of 1990."

Morally, it is wrong for the American people to be complicit in the Turkish government's effort to deny the suffering and death of over 1.5 million people.

Turkey's denial of the Armenian Genocide sets a dangerous precedent that makes future genocides more likely. Adolf Hitler, while planning the Holocaust, silenced the potential reservations of his generals by asking: "Who, after all, speaks today of the annihilation of the Armenians?"

As a Nation that values the freedom of speech and assembly, we must admit that this event occurred, and force Turkey to do likewise.

Additionally, we must ask the EU to refuse Turkey's application to join the EU until Turkey accepts their role in the genocide against the Armenian people.

Mr. CONYERS. Mr. Speaker, tonight I rise to remind the world that the 24th of April marked the 90th anniversary of the Armenian Genocide, a systematic and deliberate campaign of genocide of the Ottoman Empire. Also, it marked yet another year without the U.S. formally recognizing the atrocities that occurred. Considering how well documented the genocide is in the U.S. archives and through an overwhelming body of first-hand, governmental, and diplomatic evidence this is nothing less than a disgrace. I also rise to reaffirm my support for the adoption of the Genocide Resolution H. Res 193, which was introduced last Congress by Rep. PALLONE. Unfortunately, even though this legislation passed unanimously out of my committee, had 110 co-sponsors and was placed on the House calendar, it was not allowed to be brought to the floor for a vote. The purpose of this legislation was prevent future genocides by stressing the importance of remembering and learning the lessons of past crimes against humanity, including the Armenian Genocide, Holocaust, and the Cambodian and Rwandan genocides in hopes of preventing future atrocities. In addition, this resolution strengthened America's commitment to the universal values of the Genocide Convention and asked the United States to commemorate the 15th anniversary of the Genocide Convention.

As Ranking Member of the House Judiciary Committee, it was an honor to be instrumental in preparing the report last year which gained unanimous approval at the committee level. The report described the Armenian genocide in the following terms: "Beginning in 1915, the Islamic Turkish state of the Ottoman Empire sought to end the collective existence of the Christian Armenian population. From 1915 through 1918, during World War I, the Ottoman Empire subjected the Armenian people to deportation, expropriation, abduction, torture, massacre, and starvation. The atrocities were renewed between 1920 and 1923. It is estimated that one and a half million Armenians were killed out of over two million Armenians who had lived in the Ottoman Empire. It should be noted that these activities ceased with the institution of the new Republic of Turkey in October, 1923." Two weeks ago, I signed onto a bipartisan letter to President Bush, asking him to properly recognize the Armenian Genocide.

The Armenian Genocide is fully documented in U.S. history. In a July 24, 1915 cable, American Consul Davis noted that, "I do not believe there has ever been a massacre in the history of the world so general and thorough as that which is now being perpetrated in this region or that a more fiendish, diabolical scheme has ever been conceived by the mind of man. What the order is officially and nominally to exile the Armenians from these

Vilayets may mislead the outside world for a time, but the measure is nothing but a massacre of the most atrocious nature. It would be that even if all the people had allowed to perish on the road. As a greater part of them, however, have been actually murdered and as there is no doubt that this was done by order of the government, there can be no pretense that the measure is anything else but a general massacre."

Now more than ever as the world is gripped by unrest and terrorism, the memory of the Genocide underscores our responsibility to help convey our cherished tradition of respect for fundamental human rights and opposition to mass slaughter. We owe it to the victims of the Genocide to acknowledge what happened and to teach our students and children about their suffering, so that we can fulfill our obligation to ensure that genocide will never happen again. Our future generation should be able to say, "I learned, I acknowledge, and I will work to prevent it from happening again."

Mr. CROWLEY. Mr. Speaker, I rise today in commemoration of the 90th Anniversary of the Armenian Genocide. This is both a somber and encouraging day for both myself and many of my constituents, who are survivors or ancestors of survivors. Somber in memory of the millions who lost their lives, and encouraging in the success of the Armenian American community of building new lives in the U.S., as well as an independent Armenia.

April 28, 1915 will live as a day of infamy in the lives of all Armenians, all over the world. It was this day that the Turkish government ordered the deportation of 2.5 million Armenians out of the Ottoman Empire. Within hours, Turkish forces had rounded up over 300 Armenian scholars, and deported or killed them. Over the next year, 1.5 million Armenians were killed or deported to concentration camps to await certain death.

I have always supported the Armenian American community. However, my support for the community does not only stem from the size of the Armenian Community in Queens, but also because I see the strategic importance of the Caucasus region for the United States.

In 2003, I had the opportunity to visit Armenia and to plant a tree at the Genocide memorial. The independent country of Armenia is a living testament to honor the memories of the survivors.

I believe that by failing to recognize these barbaric acts, one becomes complicit in them. Let us never forget the 1.5 million Armenians who perished in 1915 and 1916.

Mr. Speaker, again I commemorate the 90th Anniversary of the Armenian Genocide, and hope that April 28th, 1915 will never be forgotten. I also ask that the New York Times story focusing on survivors of the genocide be inserted into the RECORD. Their words and memories speak louder than any speech we will hear today.

[From the New York Times, Apr. 23, 2005]  
ARMENIAN IMMIGRANTS RECALL A 90-YEAR-OLD TRAGEDY

(By Corey Kilgannon)

A cheery sign in the New York Armenian Home in Flushing, Queens, yesterday informed its elderly residents in colorful letters of the current date, season and weather.

And on an anniversary: "Remember April 24, the Armenian Genocide."

A framed proclamation by Gov. George E. Pataki hung nearby, declaring April 24 as

Armenian Remembrance Day to commemorate the Turkish massacres of an estimated 1.5 million Armenians beginning in 1915. It called the killings "the 20th century's first such calculated effort to destroy people on a massive scale" and added that "the Armenian Genocide led academics to coin and utilize the very term genocide."

It is doubtful that even with failing memories, any residents at the home needed a reminder.

"This time of year, they all get disturbed and remember," said Jenny Akopyan, assistant director of the home.

Tomorrow, thousands of Armenian-Americans from across the Northeast are expected to gather in Times Square to mark the 90th anniversary of the murders of their relatives and forebears by Ottoman Turks during World War I.

On April 24, 1915, Turkish soldiers arrested hundreds of Armenian leaders in Constantinople, then tortured and executed them. The mass slaughter of Armenians over the next several years is often called the first genocide of that century and a precursor to the Holocaust.

The Armenian Home, on 45th Avenue in Flushing, opened in 1948 and has long housed many genocide survivors who escaped by playing dead, fleeing or other means. Most of the residents are from families decimated by the genocide, but only a half dozen—all in their 90's—actually escaped it as children.

The most recent death of a survivor was in August: Lucy Derderian, age 103, who "only survived the genocide because her mother was smart enough to hide her under the dead bodies during a massacre," said Aghavni Ellian, the home's executive director.

Ms. Ellian walked into the home's day room, where about two dozen elderly Armenian immigrants sat watching "The Price Is Right" on a large television next to an ornate Christian shrine bedecked in crimson and gold. She carried a lamb dish that had been delivered for later: madal, a roast blessed by a priest and traditionally eaten on April 24.

The residents had just finished small cups of thick, strong Armenian coffee. Few survivors could offer completely lucid recollections, but each had some snippet of horror seared into memory.

Gulumya Erberber, 93, said that Turkish soldiers had beheaded her father, a wealthy academic, and seized his riches and several houses. She was 3 years old then, and her mother fled with the five children to a mountain village where the townspeople did not speak Armenian but did help the family.

Israel Arabian, 99, leaned on his cane and related how he was forced to work for a Turkish officer who took Mr. Arabian's teenage sister "as a wife." He ran away and grew up in a Greek orphanage before eventually coming to New York and settling in Queens.

Many Armenians bitterly denounce the Turkish government for denying that the killings constituted genocide. In an interview yesterday, Tuluy Tanc, minister counselor for the Turkish Embassy in Washington, said the accusation of genocide was "unfair and untrue," a legal ploy to gain reparations.

"We don't see what happened as genocide, quote-unquote," Mr. Tanc said. "Unfortunately and tragic events took place during World War I and bad things happened to Armenians, and Muslims and Turks also."

"The number killed is much less than they say—it's more like 300,000 Armenians who lost their lives," he said, adding that Turkish leaders had recently asked Armenia to set up a commission to study the killings.

Onorik Eminian, 93, said she was a young child living in the city of Izmir when the Turks killed her parents and other relatives.

She said she has never stopped having nightmares about it, especially in April.

"I saw plenty, sir, plenty," she said. "I saw them go in and they broke our churches. They took old ladies, old like me now, and shot them one by one. This I saw in front of my eyes. They chopped the arms off our schoolteachers and hung them from the trees in the street to teach us a lesson. We watched our priest come delivering food, and they killed him and threw the food into the street."

"Are you sure you want to hear my sad story?" she asked. "I was playing in front of our house when they came on horses. My grandmother pulled me in. The Turks grabbed my father—he was hiding Armenians in his coffee shop—and I cried, 'Daddy, Daddy, don't go' and I held onto his leg. Then one soldier told me to shut up and hit me right here with a rifle. Look, I still got the mark."

Weeping, she pointed to a bump on her forehead between her eyebrows and dabbed her eyes with a tissue.

"I said, 'Where's my father?' and they said, 'Here's your father,' and they held up his jacket and pants."

She grew up in an orphanage, and eventually came to New York, lived in Astoria and had two daughters who never saw any mention of Armenian genocide in their history books.

"If you write this in the newspaper," she said, "will the Turks come here and kill me? I'm still afraid of them."

Mrs. LOWEY. Mr. Speaker, I rise in commemoration of the 90th anniversary of the Armenian Genocide. This yearly commemoration is a testament to the lives and the legacy of the 1.5 million Armenians who lost their lives, and it underscores our commitment to keeping the Armenian nation and culture alive.

As we revisit this dark period in Armenian history, we must be mindful of the lessons that can be learned from this tragedy. Blind hatred and senseless prejudice tear at the very fabric of our society even today. The victims of the Armenian Genocide, the Holocaust, ethnic cleansing in Kosovo, Rwanda, and Sudan, and acts of vicious terrorism remind us of the human cost of hate and implore us to prevent these tragedies from happening again.

I want to join my colleagues in renewing our pledge to the Armenian nation to ensure that Armenians around the world can live free of threats to their existence and prosperity. Azerbaijan continues to blockade Armenia and Nagorno-Karabagh, denying the Armenian people the food, medicine, and other humanitarian assistance they need to lead secure lives. A key component of this pledge is maintaining high levels of assistance to Armenia. As Ranking Member of the House Foreign Operations Appropriations Subcommittee, I will fight to maintain funding for Armenia, which recently became eligible for special Millennium Challenge Account funds.

We must also be cautious to balance our immediate foreign policy needs with the long-time concerns we have had about both the Azerbaijan and Turkish records. This includes reaffirming that the Section 907 waiver is not automatic and indefinite—it will be carefully evaluated. And it also involves close monitoring of assistance given to Turkey.

Building a strong, prosperous Armenia is the best way to honor the memory of the Genocide victims, and I am proud to be a partner in this effort.

Mr. ANDREWS. Mr. Speaker, I rise today to commemorate the somber occasion of the

90th Anniversary of the Armenian Genocide, and to call upon the Administration to finally recognize this horrible crime for what it truly was, systematic and deliberate murder.

The Armenian Genocide began on April 24, 1915, and within 8 years one and a half million Armenians were tortured and killed. Tortures that the Armenians were forced to endure included forced labor, rape, kidnapping, and death marches under the guise of "temporary relocation." A grave injustice was intentionally committed by the Ottoman Empire during these years, and it is imperative that we now stand up and demand that this injustice be officially recognized by Turkey, the United States, and the world.

The senseless crime of genocide is one of the most reprehensible acts that can be committed by man. To attempt eradication of an entire population based on a misguided prejudice is absolutely vile, and the United States should do everything in its power to try and prevent such atrocities from happening in the future. Only by explicitly defining genocide and ensuring that all cases of genocide throughout history are appropriately identified can we effectively deter this crime. Particularly at this time of heightened vigilance around the world, it is absolutely imperative that America take a strong stance against the most troubling of all terrorist acts, mass killings.

We can not forget Adolph Hitler's haunting remark to his military staff prior to launching the Holocaust: "Who, after all, remembers the annihilation of the Armenians." Let us stand up as a country and let the world know that we do remember.

Mr. KIRK. Mr. Speaker, last Sunday, April 24, 2005 marked the 90th Anniversary of the Armenian Genocide. Beginning in 1915, an estimated one and a half million Armenians were systematically murdered over the next eight years.

There were nearly two million Armenians living in the Ottoman Empire on the eve of W.W.I. In an organized campaign of ethnically motivated genocide, the Ottoman Turks deported a million Armenians, separating families and destroying livelihoods. Hundreds of thousands more were murdered. They did not lose their lives, as common nomenclature refers to the situation. They were murdered. Many others died of starvation, exhaustion, and epidemics which ravaged the concentration camps.

On this 90th Anniversary, I join with my colleagues in Congress and the Armenian community worldwide in commemorating this solemn day of remembrance. In particular I commend the Armenian-Americans from my district who departed from the All Saints Community Center in Glenview, IL, to join dozens of Armenians from the Chicago area to peacefully protest at the Turkish Consulate in Chicago. This sort of activism is an important step to finally gaining official recognition of the genocide.

This anniversary serves as a reminder of the horrible campaigns of genocide that occurred in the past, from the Holocaust, to Rwanda, to today's atrocities in Darfur, Sudan. We must uphold our duties as global defenders of human rights and give the Armenian community, as the victims of the 20th Century's first genocide, the recognition they deserve.

Mr. LEVIN. Mr. Speaker, I rise today to join my colleagues in commemorating the 90th anniversary of the Armenian Genocide.

This past Sunday, April 24th, marked 90 years since the beginning to one of history's dark chapters. On that day in 1915, the government of the Ottoman Empire began a brutal and systematic campaign of genocide against the Armenian people. It started with the execution of some 300 Armenian leaders, professionals and intellectuals. By 1923, over 1.5 million Armenians had been killed, and another 500,000 had been deported.

The Ottoman Empire claimed that it was acting to suppress civil unrest among Armenians during World War I. The absurdity of this justification for a reign of terror was pointed out at the time by no less credible a witness than our own Ambassador to the Empire, Henry Morgenthau. His report to Washington described the Ottoman campaign as one of "race extermination."

The almost unimaginable pain and suffering endured by the Armenian people has been compounded since by the refusal of the Ottoman Empire and now the government of Turkey to acknowledge that the Genocide ever even occurred. Generations of Turks have been raised to deny this atrocity, perpetuating resentments and hostilities. By trying to defend the indefensible, the government of Turkey has denied the Armenian people, as well as its own people the chance to begin the process of healing these wounds.

Mr. Speaker, 90 years is far, far too long for a people to wait for an acknowledgment of the crimes committed against them. That is why I am proud to support the resolution that will be introduced in the coming days remembering the victims and honoring the survivors of the Armenian Genocide. This resolution will appropriately recognize these acts for what they were. Only with a common understanding of this dark period can we move forward and work to prevent similar tragedies in the future.

While we mark the loss and pain of the Armenian people every April 24th, it is my fervent hope that some day soon, it will no longer be necessary to urge the recognition of these terrible events as genocide. I am particularly disappointed that the President has once again failed to lead on this issue. Once again, President Bush's statement this weekend studiously avoided proper recognition of this tragedy.

Mr. Speaker, I ask that all my colleagues take the time to reflect on this anniversary, and that we renew our commitment to the victims of the Armenian Genocide and to each other to never allow such human suffering to occur again.

Mr. SOUDER. Mr. Speaker, I rise to remember the 90th anniversary of the Armenian Genocide of 1915–1923. We are familiar with these events. Hundreds of thousands of men, women, and children were driven from their homes, starved, beaten, and shot. Government-orchestrated intimidation, government-sponsored deportations, and government-perpetrated slaughter are the hallmarks of the Armenian Genocide. They are also the hallmarks of other genocides with which we are all too familiar.

The Armenian Genocide was the first genocide of its kind, but it was not the last. It has served as a model of the Holocaust in Europe, the Killing Fields of Cambodia, and religiously motivated atrocities in the Sudan. We look regretfully and sorrowfully at the slaughter of so many in these cases, as well we should. These events demonstrate man's inherent sin-

fulness and the evil that comes so easily. No one denies the events in Europe, Asia, and Africa happened. Anyone rejecting these mass slaughters is themselves rejected. And yet, many suffer some kind of incredulity when it comes to the Armenian Genocide. We demand the perpetrators of these other genocides are made to account for their actions, but not the Armenian Genocide.

Photographs and eye witness account point overwhelmingly and undoubtedly to the massacre of over one million human beings, but no one has ever been held accountable. Ninety years after these events, the perpetrators are no longer living. In this world, they can no longer be held responsible for their actions. Their heirs, however, should be made to acknowledge the deeds of their fathers. But they are not.

Modern Turkey has made Armenian Genocide denial into an article of faith. Genocide denial is taught in schools, and is supported by the government. Anyone who deviates from the official line is considered a traitor. Indeed, the government of Turkey works feverishly to prevent any government from recognizing the Armenian Genocide. Recognition by the legislative bodies of France, Italy, Switzerland, and Russia has been met with harsh criticism from the Turkish government.

In 2000, only intense lobbying and ruthless pressure from Turkey prevented this House from recognizing the Armenian Genocide. It is shameful that the United States House of Representatives refuses to reaffirm the Armenian Genocide. Official American records on the Armenian Genocide are considered to be the most extensive in the world, and yet we refuse to reaffirm what already has been acknowledged to be the first genocide of the Twentieth Century. In past eras, American officials, including U.S. Ambassador Henry Morgenthau and President Ronald Reagan, boldly declared the savage butchery in eastern Anatolia and the Caucasus to be genocide.

By allowing Turkey to deny its past actions, we take a step backwards. By not reaffirming the events of 90 years ago, we do not live up to the ideals of our country. I reaffirm the Armenian Genocide in the House of Representatives. I know that it happened. I remember.

Mr. WAXMAN. Mr. Speaker, I join my colleagues in commemorating the 90th anniversary of the Armenian Genocide.

Today we solemnly remember the victims of the Ottoman Government's 8-year campaign of terror against its Armenian population. During this brutal campaign, Armenian communities were systematically destroyed, one and a half million innocent men, women, and children were murdered, and over one million others were forcibly deported.

This somber anniversary is a tribute to the memory of the victims of the Armenian Genocide, and a painful reminder that the world's inaction and denial 90 years ago left a tragic precedent for other acts of senseless bloodshed. This year we marked the 60th anniversary of the liberation of the Auschwitz-Birkenau death camp. The road from Armenia to Auschwitz was direct. If more attention had been centered on the slaughter of innocent Armenians, perhaps the events of the Holocaust might never have been allowed to occur.

And, as we speak today, government-supported Janjaweed militias continue their systematic destruction of black Sudanese in Darfur. Thousands have been murdered,



raped, and starved to death, and over one million have been displaced from their homes. The Armenian Genocide stands as a tragic precedent to the brutal campaign of ethnic cleansing currently ravaging Darfur.

Today, we honor the memory of the victims of the Armenian Genocide, and vow once more that genocide will not go unnoticed or unmourned. We must stand up to governments that persecute their own people, and reaffirm our unwavering commitment to fight all crimes against humanity and the efforts to hide them from the rest of the world.

Mr. HONDA. Mr. Speaker, I rise today to commemorate the anniversary of a tragic event. April 24th 2005 marks a solemn occasion in world history: the 90th anniversary of the Armenian Genocide. From 1915 to 1923, the Christian Armenian population endured a policy of systemic killing implemented by the then-Ottoman and early Turkish Empires, resulting in the ethnic slaughter of one and a half million Armenians.

Since that time, descendants of Armenian immigrants have proudly clung to their identity, prospering in communities throughout the world. Here in the United States, we are especially fortunate to have a vibrant Armenian community that has greatly enriched American civic life.

It is vital that we remember this dark period in history. Losing the memory of this tragic event would only perpetuate the injustice. For too long, the Armenian Genocide, the first genocide of the 20th Century, has been denied the recognition that it properly deserves. As human beings, we all have a responsibility to keep events such as the Armenian Genocide at the forefront of our collective historical memory. We cannot begin to overcome the challenges of the future until we acknowledge our past mistakes.

It is perhaps the tragedy of the 20th Century that a cataclysmic occurrence such as the Armenian Genocide has to share a place in our memory with other horrific events such as the wartime atrocities perpetuated during WWII, the ethnic cleansings in Cambodia and Bosnia, and the Rwandan genocide. I truly believe we must take the time and make the effort to find reconciliation between the perpetrator and victims of these events.

Currently, we are confronted by a genocide unfolding in Sudan, where tens of thousands die every month; we must not allow ourselves to turn a blind eye.

Mr. Speaker, recognizing the Armenian Genocide will help heal the wounds humanity has suffered in the past century. By acknowledging the horrors of our past and working to protect our future, we take one step closer to the goal of "never again."

Mr. MENENDEZ. Mr. Speaker, "those who cannot remember the past are condemned to repeat it." That saying is as true today as it was almost a hundred years ago when the philosopher George Santayana first wrote it.

So, today we are here to remember. We are here to remember that the Ottoman Empire brutally tortured and murdered 1.5 million Armenians 90 years ago and that half a million Armenians were forced to flee their country. Let us also remember and honor those who survived the genocide. Although few survivors of the Armenian Genocide are still living today, those who endured the horrors of 1915 are heroes for all time.

We are here to honor those who died and to call for recognition of the Genocide carried

about by the Ottoman Turkish government. We are here to remember so we don't repeat the same mistake, anywhere, in any country of the world.

In my view, all Americans must recognize that the atrocities committed from 1915 to 1923 constitute genocide. We do not use that word lightly. But the word, itself, makes a powerful statement about the horrors suffered by the Armenian people. As Samantha Powers, the leading expert on genocide said in a letter to the editor of the New York Times, "The extermination of Armenians is recognized as genocide by the consensus of scholars of genocide and Holocaust worldwide. The failure to acknowledge this trivializes a human rights crime of enormous magnitude." Today, the people of Armenia and her diaspora are proudly seeking to rebuild their country.

From the ashes of despair born of the genocide, and from the ravages of seven decades of communist rule, Armenians the world over are striving to secure a safe and prosperous future for Armenia and Nagorno-Karabagh.

As Armenian-Americans join with Armenians from throughout the world to help to rebuild their homeland, and as they seek to secure an economically prosperous state founded on firm democratic principles, I will stand by them.

As a Member of the House leadership and the House International Relations Committee, I promise to do all I can on behalf of Armenia and to ensure that the Armenian genocide is recognized. In closing, I remind you that Adolf Hitler once stated: "Who today remembers the Armenians?"

I am here to say that we remember the Armenians. The children, grandchildren, and great grandchildren of the survivors and of those who perished, remember the Armenians. The friends and neighbors of Armenia, remember the Armenians. And here in the United States, we remember the Armenians.

Mr. RADANOVICH. Mr. Speaker, I am honored to stand here today with my colleagues to acknowledge this important event and to have the opportunity to commemorate the 90th Anniversary of the Armenian Genocide; one of the saddest chapters of history. We join the Armenian-Americans across the nation and the Armenian community abroad to mourn the loss of so many innocent lives.

In this turbulent century, we have witnessed humanity's great potential for good and bad—but the world has triumphed more often in the last 90 years than it has disappointed. And yet, while focusing on humanity's successes is always more attractive than remembering any failures, we as civilized peoples, countries and nations must not deny the immorality of atrocities such as the Armenian Genocide.

The U.S. is fortunate to be home to an organized and active Armenian community, whose members contribute and participate in every aspect of civic life. This is one of the reasons that myself—along with 170 members of Congress—have asked President Bush to join us in reaffirming the United States record on the Armenian Genocide.

As a proud member of the Congressional Caucus on Armenian Issues and an ardent supporter of Fresno's Armenian-American community, I wish the people of Armenia success in their efforts to bring about the lasting peace and prosperity that they deserve. I pledge to continue my ongoing efforts to sponsor initiatives that would build on our record towards an inevitable, full and irrevocable U.S. affirmation of the Armenian Genocide.

Mr. SMITH of New Jersey. Mr. Speaker, today we mark the 90th anniversary of the beginning of the Armenian Genocide. Every year we participate in this solemn commemoration but this year it has a special significance.

For the families of the victims and the survivors, the horrors of that bygone era remain so painful that it is hard to believe how much time has passed. The passage of years has not dimmed the memory or eased the grief. Not a relative or friend has been forgotten, nor have fond memories of native cities faded away.

Moreover, no accounting for mass murder has been made. Though many governments and legislative bodies around the world have recognized the Armenian Genocide, the Turkish Government consistently refuses to acknowledge what happened. For Armenians everywhere, Turkey's policy of aggressive denial sharpens the feeling of loss, embittering the lives of those who miraculously survived.

Today, those of us without Armenian blood share the sorrow of Armenians everywhere. I had the privilege in September 2000 of chairing hearings on the Armenian Genocide in the Subcommittee on International Operations and Human Rights of the International Relations Committee. The reading I have done over the years, which has included detailed descriptions of the atrocities, shock me. But, I am resolved to speak about this issue, loudly and often.

The Armenian Genocide has significance for all of us. It created a monstrous precedent which launched a century of genocides. In numerous countries and cultures, an ethnic group that controlled the state has used its instruments of coercion to slaughter members of a minority group, religion or class. It is enough to recall Adolf Hitler's smug remark, "Who remembers the Armenians?" to grasp the universality of what happened to the Armenians.

Much has changed in the world since the mass, planned murder in 1915—two world wars, the fall of the Ottoman, Habsburg and Romanov Empires, the rise of the American superpower and most recently, the fall of the Soviet Union. One would have thought that we would have grown wiser over the years. Alas, we have not learned the appropriate lessons from the 20th century's first genocide. Just a few years after Rwanda, at this very moment, another genocide is taking place in Darfur. Yet, instead of mounting a united response, the international community has waffled or slithered away from responsibility, as hundreds of thousands are slaughtered.

The record of man's inhumanity to man is awful enough to produce a feeling of resignation. But we must fight that tendency. We must continue to remind the world of what occurred in 1915 and keep calling on Turkey to won up. We must not restrain ourselves from speaking of the Armenian Genocide. Along with many of my colleagues, I urge President Bush to speak the truth to Ankara, which needs to come to terms with its own past.

As this somber time, I want to note one optimistic point: OSCE negotiators are guardedly hopeful about the prospects of resolving the Nagorno-Karabakh conflict. True, we have experienced such moments before and should not get our hopes up. Still, I am encouraged to hear that there is at least some reason for hope. We all pray for a peaceful solution to this conflict, which has caused over 30,000 deaths and many more casualties. Next year,

when we once again commemorate the Genocide of the Armenians, I hope their descendants will be living in peace with their neighbors, building a democratic, prosperous country that will be a light unto the world.

Mr. ENGEL. Mr. Speaker, I rise to commemorate the ninetieth anniversary of the Armenian Genocide. On the night of April 24, 1915, the Ottoman Empire arrested over 200 Armenian community leaders in Constantinople, thereby marking only the beginning of the horrendous Armenian Genocide to come.

On the eve of World War I, an estimated two million Armenians lived in the Ottoman Empire. Well over a million were deported and hundreds of thousands were simply killed. Between 1915 and 1918, the Ottoman Empire conducted other atrocities against Armenians which also included abduction, torture, massacre and starvation. Armenians living in Armenia and Anatolia were forcibly moved to Syria, where they were left in the desert to die of hunger and thirst. In addition, there were systematic murders; women and children were abducted from their homes and abused. It has been estimated that one and half million Armenians died as a result of this genocide from 1915 to 1923. By 1923 the entire landmass of Asia Minor and historic West Armenia had been expunged of its Armenian population.

On this important anniversary, it is a lasting lesson to people everywhere that genocide must not only be opposed by all nations, but that it must be universally recognized as a crime against humanity—no matter where it occurs or against whom it is carried out.

Mr. LANGEVIN. Mr. Speaker, I rise today to commemorate the 90th anniversary of the Armenian genocide, during which one and a half million Armenians were tortured and murdered, and more than half a million were forced from their homeland into exile. Despite overwhelming documentation, the Turkish government has refused to admit or apologize for these atrocious acts, or even acknowledge the Armenian Genocide.

As Americans, we must guarantee that our foreign policy reflects our values of justice, equality and responsibility. These values should apply in all of our international interactions, including those with Turkey, a NATO ally. Turkey wishes to increase its global profile through accession to organizations such as the European Union. However, if Turkey wishes to gain the world's respect, it must earn it. It must demonstrate its commitment to peace and democracy in the region. It must reopen its borders, end its blockade of Armenia, and encourage Azerbaijan to end its aggressive rhetoric. And most importantly, it must accept responsibility for past injustices through an unconditional recognition of the Armenian Genocide. Only then can Turkey begin to come to terms with its history. Only then can Armenians seek justice from the Turkish government for the losses of so much and so many.

Last month, I was honored to lead a conference session for Rhode Island students in which we discussed the genocide and what steps our government should take to recognize that tragedy appropriately. I think practically every student present that morning was amazed that, despite overwhelming evidence and widespread support, Congress has not yet passed the genocide resolution. It is time for Congress and the White House to speak with one voice and ensure that our national ideals

are reflected in our foreign policy. Consequently, I joined many of my colleagues in asking the President to recognize the Armenian Genocide in unambiguous terms, and I will again cosponsor the Genocide Resolution when it is reintroduced in the coming weeks.

As an ardent supporter of Rhode Island's Armenian-American community throughout my public service career, I am proud to join my colleagues to today in honoring the victims of the genocide by paying tribute to their memory, showing compassion for those who have suffered from such prejudice, and never forgetting the pain that they have endured.

Mr. MCGOVERN. Mr. Speaker, for the past nine years, I have come to the floor of the U.S. House of Representatives to honor and remember the genocide perpetrated against the Armenian people by the Ottoman Empire at the beginning of the 20th Century.

This year marks the 90th Anniversary of these heinous acts, which drove so many survivors to the distant shores of the United States. Those of us in central Massachusetts have learned the story of the Armenian Genocide from our friends, neighbors and colleagues who are direct survivors, or the children and grandchildren of those survivors.

I have been privileged to participate in many of the annual remembrances of the Armenian Genocide held in Worcester, Massachusetts, at the Armenian Church of Our Savior, one of the oldest Armenian churches and congregations in America.

But I feel more privileged to have worked with the Armenian community in Worcester to educate the community, and especially young people and college students, about not only the Armenian Genocide, but about other contemporary and even current genocides that are taking place around the world. I am especially grateful that I will be able to collaborate with them in the future on events that will focus on the genocide in Darfur, Sudan.

May we all live to see and celebrate the day when we commemorate the Armenian Genocide in a world where genocides no longer take place against any people.

□ 1945

#### GENERAL LEAVE

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order on the Armenian genocide.

The SPEAKER pro tempore (Mr. MCCAUL of Texas). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

#### HONORING ATHENS, TEXAS, MAYOR JERRY KING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise today to recognize the exceptional leadership, character, and outstanding achievements of my dear friend, Mayor Jerry King of Athens, Texas. After an

unprecedented five terms in office and 10 years of exceptional service, Mayor King has decided to step down as mayor. His decision is truly a loss to the citizens of Athens, Texas.

A responsive and fiscally responsible leader, Jerry King has always brought Athens together to achieve many worthy goals, including the opening of a new city hall that is modern and meeting the needs of the citizens of that community and the Texas Freshwater Fishery Center, which is truly a wonderful showplace facility for Athens and east Texas that helps educate numerous tourists and school children on the wonders of nature and the environment and our freshwater fish.

He has helped revitalize downtown Athens, Texas. Mr. Speaker, at a time when many small towns in rural America and rural Texas have seen a decline, they have seen their glory days pass them up, downtown Athens is vibrant, it is alive, it is well, thanks to the leadership of Jerry King. It shows that Athens' glory days are in the present and in the future, not in the past.

Mayor King has also worked to improve Athens' transportation infrastructure through the new loop that is just vital to economic development in that part of east Texas. Mayor King has led and won the support on so many different programs and projects that are important to the people of Athens. This is truly a record of accomplishment.

Undoubtedly because of it, Mayor King is recognized as a strong and visionary leader throughout all of east Texas; and elected officials throughout East Texas, including myself, have sought his advice, his counsel, his wisdom.

Mr. Speaker, he is upbeat, he is optimistic, he is forward thinking and he is a good listener; and through his efforts he has made Athens, Texas, a better place to live, to learn, to work, and to raise a family.

Mr. Speaker, Jerry King has not only demonstrated his dedication to public service through his tenure as mayor but through his volunteer service and enthusiastic involvement in community organizations as well. Jerry has always led by example. He served as the president of the Henderson County YMCA, the president of the Athens Noon Kiwanis Club, the president of the Athens Teenage Baseball Association, the vice president of the Chamber of Commerce, a board member of the Athens Industrial Foundation, and the list goes on and on and on.

In his professional career, Jerry King has undertaken a noble life, that of educator. His life is one about improving education and strengthening our institutions of higher learning.

After graduating from Commerce High School, Jerry King attended Texas A&M University at Commerce, where he received a bachelor's degree in economics, a master's degree in business administration, and a doctorate in education.

He has put his education to work for the citizens of east Texas as a professor of management, business and economics at his beloved Trinity Valley Community College. Today he serves there as Dean of Occupational Instruction; and thanks to his work, young people from all over east Texas have been enlightened about business and economics, and thusly they have been empowered. They have been empowered by a great teacher that they respect and admire to go out and create the next generation of inventory software, to help found the next community bank next door.

As the Congressman for the Fifth Congressional District of Texas, I am pleased today to recognize my good friend Jerry King for his many years of public service as mayor and for the outstanding contributions he has made to the city of Athens. I also want to thank his wonderful and patient wife, Doshia, for the sacrifice she too has made on behalf of the people of Athens.

Although he is stepping down as mayor, Jerry King has truly made his community and country a better place. I know he will continue to do so, be it as public servant, leader, volunteer, or educator.

Mr. Speaker, the greatest compliment I can pay my friend Jerry King tonight is that when I think about my 19-month-old son, Travis, I can be proud if one day he would grow up to be just like Mayor Jerry King of Athens, Texas.

#### NO TO THE CENTRAL AMERICAN FREE TRADE AGREEMENT

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. Mr. Speaker, last week more than 150 Republicans and Democrats, Senators and House Members, business groups and labor organizations gathered on Capitol Hill to speak out against the Central American Free Trade Agreement. This group of unlikely bedfellows, if you will, spoke with one voice to deliver a unified message, no to CAFTA.

CAFTA, the Central American Free Trade Agreement, expands the failed trade policies of the North American Free Trade Agreement to Central America. When I ran for Congress in 1992, the United States had a \$38 billion trade deficit. Last year, a dozen years later, the United States had a \$618 billion trade deficit: from \$38 billion to \$618 billion trade deficit.

The more you look at the face of CAFTA, the better you can see who will benefit and who will pay the price if Congress passes one more trade agreement. Trade pacts like NAFTA and CAFTA enable companies to go overseas, exploit cheap labor in the developing world, and then import their products back into the United States. That is why we have a \$618 billion trade deficit.

The Central American Free Trade Agreement should actually be called the Central American Free Labor Agreement.

Now, we know in the United States our economy over the last several decades has been a tremendous success because workers share in the wealth they create. If you work for General Motors, if you work for a hardware store, you help your employer by your labor make money, and your employer in turn allows you to share in the wealth you create. That is why the American economy is such a success story.

But throughout the developing world, workers simply do not share in the wealth they create. Workers in Costa Rica cannot afford to buy the toys they make for Disney for their children. Workers in Vietnam at a Nike plant cannot afford to buy the shoes they make. Motorola workers in Malaysia cannot afford to buy the cell phones they make. Ford and GM workers in Mexico cannot afford to buy the cars they manufacture.

The Central American Free Labor Agreement is about access to cheap labor. The numbers do not lie. The combined purchasing power of the CAFTA nations, Costa Rica, Nicaragua, El Salvador, Guatemala and Honduras, the combined purchasing power of those six countries is equal to that of Columbus, Ohio, or Orlando, Florida, or Memphis, Tennessee, or the entire State of Kansas.

CAFTA supporters attempt to argue that this trade agreement will open markets for U.S. exports. They paint a picture of American workers manufacturing products for this hugely growing consumer market in Central America. But the math does not lie. The average salary of a Nicaraguan worker is \$2,300 a year, \$191 a month. Nicaraguan workers cannot afford to buy a car made in Ohio. They cannot afford to buy shoes made in Maine. They cannot afford to buy textiles or apparel made in North Carolina or Georgia. They cannot afford to buy software made in Seattle in the district of the gentleman from Washington (Mr. McDERMOTT).

The fact is, I ask CAFTA supporters, what American-made product can a Central American worker purchase who is earning less than \$200 a month? CAFTA supporters will not answer these questions. They cannot.

The truth is that CAFTA is not about selling them American products. CAFTA is about exploiting foreign workers, about taking American jobs to Central America. It is about exploiting those foreign workers, and it means fewer jobs here.

NAFTA promised job growth in the U.S. and a thriving middle class in Mexico; but 10 years later our Nation has lost 1 million jobs, and Mexican workers' wages have remained stagnant.

CAFTA, the dysfunctional cousin of NAFTA, is more of the same: another trade agreement that ships jobs overseas, another trade agreement that ne-

glects the essential environmental standards, another trade agreement that weakens food safety standards in both countries, another trade agreement that keeps foreign workers in poverty.

The definition of madness, Mr. Speaker, is repeating the same action over and over again and expecting a different result. That is what happened: 12 years of trade agreements, 12 years of promises, 12 years of failed trade policy. Yet the insanity of it is we keep doing the same thing. We keep passing more trade agreements.

CAFTA simply does not make sense. The President signed CAFTA almost 1 year ago. Since 2001, typically when the President signs an agreement, we vote on it within 60 days. This week, on Thursday, will be the 11-month anniversary of the signing of CAFTA. House leaders said they are going to vote on it by the end of May.

Mr. Speaker, I would close by saying when the world's poorest workers can buy American products, rather than make them, then we will know that our trade policies are finally succeeding. CAFTA will not. Vote "no" on CAFTA.

#### IN SUPPORT OF LT. ILARIO PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, today is the Article 32 hearing for Second Lieutenant Ilario Pantano, a Marine who I have talked about at great length and who has served our Nation bravely in both gulf wars.

In an action of self-defense a year ago in Iraq, Lt. Pantano made a split-second, battlefield decision to shoot two Iraqi insurgents who refused to follow his orders to stop their movement towards him. Two-and-a-half months later, a sergeant under his command who never even saw the shooting and who was earlier demoted for his lack of leadership abilities, accused him of murder. Because of that, Lt. Pantano today faces an Article 32 hearing where a hearing officer will determine whether he will face a court marshal for two counts of premeditated murder.

Mr. Speaker, what is happening to this young man is unfair and an injustice. Lt. Pantano has served this Nation with great honor. My personal experiences with him and his family convince me that he is a dedicated family man who loves his corps and his country.

Mona Charen, a well-known journalist, puts it best when she writes: "Pantano was in the middle of a war zone, not a vacation on the Riviera. He had been dodging ambushes and booby traps for weeks. He had seen his comrades killed and maimed. Perhaps he acted too hastily in shooting those Iraqis. But a murder charge? Has the

Marine Corps gone PC," politically correct?

I have received letters and e-mails from Vietnam veterans who sympathize with him and ask that I do something to help him. They know what it is like to be in a battle with an unconventional enemy. One second can make the difference between life and death.

I have also read excerpts from his combat fitness report in which superiors praise his leadership and talent and even call for his promotion.

Mr. Speaker, Lt. Pantano was by all accounts an exceptional Marine. I hope that in the next day or two, as these hearings end, the hearing officer comes to the same conclusion that I and many like myself have come to, that Lt. Pantano should never have been charged in the first place and that all charges against him are dropped.

Mr. Speaker, I put in a resolution, H. Res. 167, to support Lt. Pantano as he faces trial. I hope that my colleagues in the House will take some time to read my resolution and look into this situation for themselves. But, most of all, I hope it is not necessary for us to discuss this further after this week.

I close with another quote from Mona Charen that I believe summarizes this situation: "Obviously, the United States cannot turn a blind eye to war crimes. If a soldier lines up civilians in front of a pit, My Lai style, and massacres them, he would richly deserve, and every self-respecting American would demand, a court marshal. But good Lord, by what possible standards can this be called murder?"

Mr. Speaker, as I close, I ask God to please bless Lt. Pantano and his family, and I ask the good Lord to please bless all of our men and women in uniform.

I close by asking God to please continue to bless America.

#### SOLVING AMERICA'S ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, President Bush invited the Crown Prince of Saudi Arabia, Prince Abdullah, to his ranch in Crawford, Texas, and met with him yesterday. Here is a photo that has been on the White House Web site and in many newspapers around the country showing the President and the Prince holding hands. That is a sign of friendship over there in that part of the world.

□ 2000

But I was struck by the fact that the focus, of course, was the subject of oil.

As we watch what the President said, or at least what was reported, our President is in a position of begging. America begging. America begging a dictatorship to ease up on oil prices.

My colleagues might recall the President asked the Saudi prince to take it

easy before the election in November, kind of keep prices down a bit, but since the election, they have just skyrocketed. In California, people are paying over \$3 a gallon. In Ohio I can tell my colleagues I have paid \$2.50, \$2.57. The average price they tell us is about \$2.24 nationally, with a 43 percent increase since a year ago, and crude oil prices were up Monday about \$54 a barrel, up \$37 from a year ago.

Now, the United States consumes about \$7.1 billion worth of petroleum, and two-thirds of it is being imported, Saudi Arabia being the largest supplier. In essence, America is totally dependent. People have to understand this, because until the American people really understand this, we will not change. Every time we buy a tankful of gas, two-thirds of the money we spend goes somewhere else, and it goes to places that are undemocratic.

The New York Times reports today, and it has this picture in the paper, about the President's meeting, and it also has an article about Venezuela, which I will submit to the RECORD. Venezuela provides about 15 percent of the oil that we consume. In fact, I have a chart here that shows from the Middle East where we get about 30 percent of the total supply, with Saudi Arabia being the largest supplier, along with Kuwait, Iraq, United Arab Emirates, and then Venezuela about 15 percent; nearly half of what we consume comes from those regions of the world. America has to understand this, because until the people of the United States understand, this place will not change.

If we look at the sad energy bill that passed this Chamber last week, without my support, it lives in the past. It lives in the 20th century, not the 21st century. There is a theory: If you just put more holes in the ground, all problems will be solved. Well, that is not going to happen. We have to think in a different way.

Now, Venezuela, as the article in The New York Times today confirms, has become a bit antagonistic toward the United States because we have an administration who is trying to get rid of the President of that country's government. Now, whether you like Venezuela or not, the facts are we get 15 percent of our oil from there, and without that 15 percent, we have to get it from somewhere else, and the prices are going to go up. Now, the President of Venezuela believes that the United States is planning an invasion of his country, and he has threatened to cut these oil sales. It is not a very pretty picture when we look around the world, whether you look at Colombia, Nigeria, Venezuela, the Middle East. So it is not surprising that the President is holding hands with the prince.

What is truly dangerous and tragic about this trend is America is not independent. We had a Declaration of Independence at the beginning of the Republic to cut our umbilical cord to Britain for political and economic reasons. But imagine an America that was

energy independent; again, where we put all of this money, that is making others rich, in the pockets of producers in this country, starting with the farmers of America who today, within 5 years, could displace 25 percent of our imported petroleum with the use of clean, burning biofuels based in biomass, in ethanol, in biodiesel, soy diesel, fuels that we can produce today on the fields that are lying fallow across this country. Imagine what biogenetics can do to produce greater BTUs per ton of what we can produce. We do not need a new hydrogen age right now; we can use what we have today to displace these purchases. We are not doing it.

Imagine, imagine an America that was energy independent; again, where when you went to the gas pump, you enriched your own community, the farmers that live around the communities that you live in, and that the gas pump that you drove up to, you could buy ethanol at E85, or you could buy 100 percent soy diesel. Do my colleagues know, in Ohio you cannot do that. Minnesota has seen the future, Iowa has seen the future. There are some places in this country who have seen the future, but the majority of our people have not seen the future.

Renewable biofuels, domestically produced, could directly displace imported petroleum, and our energy bill last week should have done that. Some of us want to live in the 21st and 22nd century; we do not want our President to be holding hands with the crown prince and begging.

[From the New York Times, Apr. 26, 2005]

BUSH AND SAUDI PRINCE DISCUSS HIGH OIL

PRICES IN RANCH MEETING

(By Richard W. Stevenson)

CRAWFORD, TX, April 25.—President Bush discussed the surge in oil prices with Crown Prince Abdullah of Saudi Arabia on Monday, but focused on a plan by the Saudis to increase their oil-pumping capacity over the next decade rather than on any short-term efforts to bring prices down.

The two leaders talked for three hours here at Mr. Bush's ranch, trying to restore some normality to a relationship that has been tense since the emergence of the role of terrorists from Saudi Arabia in the Sept. 11 attacks. They discussed a variety of issues, including the Arab-Israeli conflict, terrorism, trade and Mr. Bush's call for more democracy in the Middle East, and the men made every effort to portray the relationship as back on track.

Mr. Bush even held the crown prince's hand, a traditional Saudi sign of friendship, as he guided Abdullah up the steps through a bed of bluebonnets to his office, the very picture of Saudi-American interdependence.

But the focus was on oil prices. Officials from both sides emerged from the meeting to say there was agreement on the value of Saudi Arabia's signaling to global markets that it would push down prices over the long run as demand for energy increased. American officials said they hoped the Saudi policy might put immediate downward pressure on oil prices, even though the expansion plan has been public for weeks.

"A high oil price will damage markets, and he knows that," Mr. Bush said as he waited for his guest to arrive.

Officials said there was no explicit request by Mr. Bush for short-term steps to bring

down rising oil and gasoline prices, which are threatening to take a toll on the economy in the United States and are already pulling down the president's approval ratings. They said that Mr. Bush and other officials had already signaled to the Saudis that they wanted a commitment to pump more oil in the short run, and that last week the Saudi oil minister had publicly expressed a willingness to do so.

The officials said the Saudis used the meeting to detail for Mr. Bush the steps they intended to take to cushion the global market from future increases in demand from fast-growing economies like China and India, and from the United States and other industrial nations.

Saudi Arabia's plan, which it began discussing publicly weeks ago, calls for spending up to \$50 billion to increase its maximum sustainable production capacity to 12.5 million barrels a day by 2009, and to 15 million in the subsequent decade, from about 10.8 million barrels now. The Saudis are currently pumping about 9.5 million barrels a day.

Asked whether that plan would have any effect soon on gasoline prices in the United States, Stephen J. Hadley, Mr. Bush's national security adviser, told reporters, "It's hard to say."

Mr. Hadley added that increasing capacity "can't help but have a positive downward effect on prices and deal with some of the volatility in the market by assuring people that supply will be available as the economies grow."

A Saudi official said that Mr. Bush had not requested a short-term production increase and that such an increase would not have any effect on gasoline prices in the United States in any case. The high price of gasoline in the United States, the Saudi official said, was mostly a result of a lack of refining capacity here.

"It will not make a difference if Saudi Arabia ships an extra million or two million barrels of crude oil to the United States," said the official, Adel al-Jubeir, a senior adviser to the crown prince. "If you cannot refine it, it will not turn into gasoline, and that will not turn into lower prices."

The national average price for a gallon of regular unleaded gasoline last week was just under \$2.24, up 43 cents from a year earlier. Crude oil prices on Monday were about \$54 a barrel, up from \$37 a year ago.

Saudi Arabia's plans to increase production capacity are politically and geologically sensitive. In the Middle East, the Saudis have been criticized for increasing production to help the United States; the most extreme of those critics has been Osama bin Laden.

Some experts, including past and present officials of Saudi Aramco, the state-owned oil company, have said the plan may be too optimistic because of geological complexities in the oil fields and challenges in finding enough technology and labor.

The crown prince arrived at the Bush ranch late Monday morning from Dallas, where he had met Sunday with Vice President Dick Cheney, who was briefed on the Saudi production plan. Reflecting the importance of the meeting to the administration, Mr. Bush was joined for the meeting here by Mr. Cheney; Secretary of State Condoleezza Rice; Mr. Hadley; Andrew H. Card Jr., the White House chief of staff; and Fran Townsend, the White House's homeland security adviser.

The atmosphere was considerably less tense than during Abdullah's last visit, three years ago to the day, and the two sides cited progress on a variety of fronts.

Saudi officials said only technicalities remained in negotiating a trade deal with the

United States, a big step toward Saudi Arabia's goal of joining the World Trade Organization. The two governments agreed to work toward making it easier for Saudi students and military officers to study and train in the United States.

Mr. Hadley said the Saudis had made "real good progress" in fighting terrorism.

Ms. Rice said that the Saudis and the United States had a "common agenda" when it came to promoting peace between the Israelis and Palestinians and that she had discussed with Abdullah the need for the Saudis to provide financial support for the Palestinians in Gaza once the Israelis pull out this summer.

[From the New York Times, Apr. 26, 2005]

#### U.S. CONSIDERS TOUGHENING STANCE TOWARD VENEZUELA

(By Juan Forero)

As President Hugo Chávez of Venezuela veers toward greater confrontation with Washington, the Bush administration is weighing a tougher approach, including funneling more money to foundations and business and political groups opposed to his leftist government, American officials say.

The Bush administration has already begun to urge Venezuela's neighbors to distance themselves from Mr. Chávez and to raise concerns about press freedoms, judicial independence and the Venezuelan government's affinity for leftist groups abroad, including Colombian guerrillas.

But it has found no allies so far in its attempts to isolate the Venezuelan leader, and it has grown more and more frustrated by Mr. Chávez's strident anti-American outbursts and policies that seem intended to fly in the face of Washington. On Sunday, Mr. Chávez ended a 35-year military cooperation agreement and ordered out four American military instructors he accused of fomenting unrest.

The accusation, which American officials denied, was the latest blow to relations that had been bitter since the United States tacitly supported a coup that briefly ousted Mr. Chávez in April 2002. Since then his strength has grown. He won a recall election last August, and record high oil prices have left his government flush with money as it provides 15 percent of American oil imports.

American officials, who had chosen to ignore Mr. Chávez through much of last year, now recognize the need for a longer-term strategy to deal with a leader who is poised to win a second six-year term in elections next year.

A multiagency task force in Washington has been working on shaping a new approach, one that high-ranking American policy makers say would most likely veer toward a harder line. United States support for groups that Chávez supporters say oppose the government has been a source of tension in the past. Under the plans being considered, American officials said, that support may increase.

"The conclusion that is increasingly being drawn in Washington is that a realistic, pragmatic relationship, in which we can agree to disagree on some issues but make progress on others, does not seem to be in the cards," said an American official who helps guide policy in Latin America.

The official added, "We offered them a more pragmatic relationship, but obviously if they do not want it, we can move to a more confrontational approach."

Already counternarcotics programs have suffered, American officials noted, and meetings among high-ranking officials from the two countries are minimal.

"What's happening here is they realize this thing is deteriorating rapidly and it's going

to require some more attention," said a high-ranking Republican aide on Capitol Hill who works on Latin America policy. "The current look-the-other-way policy is not working."

The United States, he said, is particularly concerned because Venezuela is one of four top providers of foreign oil to the United States. "You can't write him off," the aide said of Mr. Chávez. "He's sitting on an energy source that's critical to us."

A main problem for the United States is that Washington has little, if any, influence over Caracas. The high price of oil has left Venezuela with no need for the loans or other aid that the United States could use as leverage.

Nor does the Bush administration have much support in Latin America, where left-leaning leaders now govern two-thirds of the continent. Secretary of State Condoleezza Rice is expected to raise concerns about Venezuela in a four-country tour through the region this week. Political analysts say she will have a hard time finding support.

Defense Secretary Donald H. Rumsfeld, on a recent trip to Brazil, publicly raised concerns about Mr. Chávez. Days later, President Luiz Inácio Lula da Silva of Brazil, in a meeting in Venezuela with Mr. Chávez and the leaders of Colombia and Argentina, pointedly said, "We don't accept defamation and insinuations against a compañero," meaning a close friend.

"Venezuela has the right to be a sovereign country, to make its own decisions," he added.

For his part, Mr. Chávez, who is famous for his rambling, often outrageous speeches, has grown more belligerent, using his anti-American posturing to bolster his popular support. He has accused the United States of planning an invasion, prompting a threat to cut oil sales, and has hurled sexually tinged insults at Secretary Rice.

While other Venezuelan officials stress that oil sales to the United States would never cease, Venezuela's new energy ties with China have worried Washington, as did Mr. Chávez's recent meeting with President Mohammad Khatami of Iran, which he declared "has every right" to develop its atomic energy program.

Mr. Chávez is also forming a popular militia that he says will eventually have two million members and has plans to buy 100,000 AK-47 assault rifles from Russia and fighter jets from Brazil.

"All governments recognize the democratic character of the Venezuelan government, its peaceful vocation, and they want to establish relations with Venezuela, with just one exception, the United States," Ali Rodríguez, the Venezuelan foreign minister, said in an interview. "It has gone to great lengths to isolate Venezuela, but no government is playing along. It has failed, and that's because there is no reason to isolate Venezuela."

Indeed, many of Latin America's largest countries see little benefit in colliding with Mr. Chávez, nor do they support the isolation of Cuba. Venezuela provides oil at below-market prices and has numerous lucrative economic agreements with dozens of nations. Many also do not want to antagonize their own leftist constituencies, who are partial to Mr. Chávez.

"The other countries don't want to be drawn into a polemic between Venezuela and the United States," said Jennifer L. McCoy, a Venezuela expert at Georgia State University who headed the Carter Center's election observer mission in Caracas last year. "It's a counterproductive strategy that could result in a negative Latin American reaction if they're forced to take sides."

Many influential Democrats in Congress also oppose a more aggressive approach.

"I think it creates further estrangement," said Representative Bill Delahunt, a Massachusetts Democrat and a member of the House International Relations Committee who has met many times with Mr. Chávez. "One cannot get around the fact that Hugo Chávez is a democratically elected president."

But Bush administration policy planners say that efforts to patch up relations with Venezuela have largely failed.

The American ambassador, William Brownfield, who took over in Caracas in September, spent fruitless months before getting a meeting with Mr. Rodríguez. Requests for meetings with other ministers and even midlevel officials are routinely ignored, and Venezuela has canceled dozens of routine exchange programs with the United States.

The one option that administration officials increasingly believe they have is to respond much more assertively and publicly to Venezuelan policies the United States does not like, ideally with the help of other countries and respected institutions like the Inter-American Commission on Human Rights.

"We shouldn't be afraid to say when he's taking away liberties, not at all," Robert B. Zoellick, now the deputy secretary of state, told the Senate Foreign Relations Committee in February.

Venezuelan Foreign Ministry officials say they still hold out hope that relations will improve. "There is one condition for us to have healthy relations with the United States," said Vice Minister Mari Pili Hernández, who handles relations with Washington. "It's called respect."

The SPEAKER pro tempore (Mr. MCCAUL of Texas). 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. ROHRABACHER. 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 California?

There was no objection.

#### U.S. FOREST SERVICE NEEDS TO ACT NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, a few days ago a P-3 Orion aircraft, owned by Aero-Union, on contract to the U.S. Forest Service, crashed in California. This crash in and of itself reduced the current Federal fleet of nonmilitary, firefighting planes by 10 percent. It probably also will lead to the grounding of the remaining nine Federal aircraft currently available for firefighting in the United States. So here we are, quickly approaching the fire season, and our Federal fleet of civilian firefighting aircraft, which was 33 strong only 2 years ago, will most likely be nonexistent this year.

Yes, we may have a few small crop dusters. We have some helicopters available. But if the wind comes up and a major conflagration gets out of control, our frontline firefighters will have no real backup. This would be a calamity of death and destruction, made all the worse because it is avoidable if we act now.

To have us become so defenseless is inexcusable. Not to take the steps immediately to end this vulnerability would be even worse. So what do we do?

Today I am calling on the leadership of the U.S. Forest Service and the U.S. Department of Agriculture to take the steps necessary to prevent a fire catastrophe later this year. Do not leave us helpless and our firefighters vulnerable and unable to thwart a blaze for lack of a large tanker aircraft which should be available. And do not tell me that it cannot be done unless we have billions of dollars. The U.S. Forest Service regulations establishing the requirements for airplane-based firefighting are obviously designed to protect the good old boys and to discourage anyone else with new approaches and new alternatives. I am suggesting that the U.S. Forest Service drop its obstructionist policies that have prevented, among other things, the use of foreign firefighting aircraft to extinguish major fires in the United States.

Specifically, the Russians have invested a large amount of money in large capacity firefighting air tankers. We wanted them to invest in this. We wanted them to invest in these things rather than in military hardware. Well, they invested and they can be anywhere in the United States or yes, anywhere in the world, in less than 24 hours. They have already played a significant role in extinguishing huge fires in Australia, Greece, and elsewhere. Yet the U.S. Forest Service has blocked the Russians from providing their services here, even as we endured massive fire destruction in places like Florida, New Mexico, and in California. This stonewalling and obstructionism has gone on for 10 years, even as our Federal firefighting air fleet deteriorated, and even as lives, homes, and other property were being lost to out-of-control fires.

This year there has been considerably more rainfall in southern California than usual. It does not take a genius to predict that the increased rainfall we have already experienced will result in a proliferation of shrub growth, thereby increasing the danger of wildfires later this year. In short, we face a fearsome wildfire threat, and the U.S. Forest Service needs to act now, or we will have no large capacity firefighting aircraft tankers available should the worst occur. If we contract with the Russians who have large capacity firefighting aircraft ready to go, we will save lives and property, even if we do that as just a stop-gap measure until domestic aircraft is built and can be introduced.

If the U.S. Forest Service does it right and does it right now, takes the steps that are required for these Russian air tankers to assist us in extinguishing a major wildfire and make those steps right now, we can actually save lives and save property. But if they do not take these steps now and we lose property senselessly, they will be held accountable. If disaster strikes and people and animals die and valuable property is destroyed as huge air tankers that could have helped remain grounded and kept out of the fight, then those responsible will be exposed for this incompetence. But that, unfortunately, will not undo the damage or bring back a life that has been lost.

It is time for the Department of Agriculture and the U.S. Forest Service to change its attitude, quit trying to protect a good-old-boy network which is unable to function, and to permit others to get into this business, including the Russians, who we would like to have invest in this type of domestic, peaceful technology.

Mr. JERRY T. WILLIAMS,  
*Director, Fire and Aviation Management, Forest Service, Department of Agriculture, Washington, DC.*

DEAR MR. WILLIAMS: Reference your 19 Aug 2004 letter, File Code 5700. My staff examined your response to the questions on the Air Tanker grounding by the Forest Service and the possible role of the Russian IL-76 in fighting US wildfires. Your response has raised some very interesting questions. The recent news release saying that the Forest Service is planning to contract for only 10 air tankers has added urgency to our investigations. With the heavy rains in California this last winter, the additional brush and timber will create an extreme fire hazard here in Southern California. A review of your Aerial Resource Bridge Plan for 2005 indicates that you are only going to contact for a maximum of 20 heavy fire fighting aircraft instead of the 33 air tankers that have been available in the past. Your RFP for heavy tankers has excluded the possibility of the use of foreign aircraft such as the IL-76, the CL-215, and the CL-415 to supplement the limited U.S. resources available due to your grounding of the air tanker fleet. It is not clear that the resources will be available to fight the fires if we have a fire season as bad as we had several years ago.

I am requesting that you prepare a briefing for presentation at my Huntington Beach office to set the stage for discussions between your experts and myself in Washington on the air tanker issues. The primary topic would be the FY 05 fire fighting plans with emphasis on the heavy air tanker fleet. Particular emphasis should be given to discussion of your modernization strategy and the role that newer aircraft will be playing. Information on the civilian C-130 fleet that is not included in your bridge plan should be included. Since the military C-130's appear to play an important role in your fire fighting plans, it is inconsistent that the civilian C-130 fleet capabilities have been excluded in your recent RFP. A detailed explanation of this action is requested.

The points of contact for this presentation are Dr. George Kuck in my Huntington Beach office and Chris Minakowski on my Washington staff. Before presenting me with the briefing in Washington, please have your appropriate staff member travel to Huntington Beach for a pre-briefing to Dr. Kuck

and discussions on your strategic overall plan.

Sincerely,

DANA ROHRBACHER,  
Member of Congress.

#### SMART SECURITY AND THE NOMINATION OF JOHN BOLTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, when Senator John Danforth stepped down as the U.S. Ambassador to the United Nations earlier this year, President Bush had an option. He could nominate a new Ambassador who would work with the nations of the world to address the growing threat of terrorism and resource scarcity, or he could nominate one of the usual suspects, someone who would maintain the administration's unilateral thinking. By nominating John Bolton, President Bush chose the latter.

As Under Secretary of State for Arms Control, John Bolton demonstrated his poor leadership skills by bullying his colleagues. He demonstrated disdain for international diplomacy by refusing to meet with certain foreign leaders, and he openly criticized the very institution, the United Nations, to which he now has been nominated to represent the United States. This behavior is not going to win the United States many friends on the international stage.

Without a reelection campaign to worry about, President Bush could have utilized the U.N. ambassadorship as a means of helping America regain its lost credibility as the most important democratic Nation in the world. He could have helped America begin its recovery from the mistakes he made in the run-up to the Iraq war and the international alliances that were shattered as a result. But when it comes to addressing America's lost credibility around the world, it remains business as usual for the White House. It seems that the Bush administration has more important matters to take care of, like the shameful way it is working to end the decades-old tradition of the filibuster in the Senate.

The nomination of John Bolton epitomizes the Bush administration's not-so-subtle pattern of disregard for multilateral institutions. Whenever possible, President Bush and his administration continue to sway from the international consensus, not towards it.

But the fight against international terrorism does not belong to a single country, particularly in this era of globalization. When the Internet connects people thousands of miles apart at the mere click of a button, we need to recognize that we are all in it together, because acts of terrorism, abusive regimes, and resource scarcity affect everyone, everyone on the globe. That is why it is more important than ever to work with other nations and

the multilateral institutions that guide them, like the United Nations and the international criminal court.

Mr. Speaker, next week, I will reintroduce the SMART Security resolution legislation that does take into consideration the need for international cooperation in the post-September 11 world. In order to effectively address the threat of terrorism, SMART Security works to strengthen international institutions and respect for the rule of law. We cannot possibly strengthen the United Nations if our own U.N. Ambassador has contempt for the institution he is trying to serve.

Instead of continuing to emphasize our differences with other nations, the United States needs to break its current cycle of shameful unilateralism. We need to court the institutions that used to celebrate America's participation, and our efforts must not stop there. If the U.S. expects other countries to relinquish pursuit of nuclear weapons, then we had better honor our international commitments to the Nuclear Nonproliferation Treaty, to the Biological Weapons Convention, to the Comprehensive Test Ban Treaty, and the Chemical Weapons Convention.

□ 2015

The United States is at its strongest when we lead the rest of the world towards peaceful resolution of conflicts by working with the rest of the world. This is the way we need to address the growing crisis in Iran and North Korea and the way to ensure that members of international terrorist groups like al Qaeda are caught and brought to justice. The ambassadors that serve the United States abroad reflect our values here at home. The nomination of John Bolton as U.S. Ambassador to the United Nations is not consistent with America's best values, our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership. It is time the Bush administration started working with the nations of the world. That world needs to begin here at home.

The SPEAKER pro tempore (Mr. MCCAUL of Texas). 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.)

#### EXCHANGE OF SPECIAL ORDER TIME

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to speak in the place of the gentleman from Nebraska (Mr. OSBORNE).

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

There was no objection.

#### DEMOCRACY IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to praise President Bush's ongoing efforts to carry democracy and freedom to the farthest corners of the Middle East.

Like some of my colleagues, I have had the opportunity recently to travel to this part of the world, to Iraq, to Lebanon, Syria, Egypt, Jordan, Cyprus and Israel. These experiences left me extremely encouraged about the prospect of freedom in the Middle East. I believe we are witnessing a crucial moment in world history as democracy is planting roots in countries previously overrun by terrorists and tyrants.

The most visible instance of this is in Iraq. Four short months ago, Iraqi citizens braved terrorist threats and bodily harm to turn out at the polls in amazing numbers. Today, the fruits of their labor are evident, and the Iraqi people can finally look forward to a future in a free and a democratic society. They have a government that serves as a voice for all Iraqis, be they Kurdish, Sunni, Shiite, Christian, or any of the many other ethnic and religious groups represented in the new government.

Like the Iraqi people, citizens of Afghanistan are also enjoying new-found freedoms. Our United States Armed Forces have liberated millions of Afghans, paving the way for a democratic Afghani government, one that is committed to fighting terrorism on its own.

But Iraq and Afghanistan are not the only nations where freedom is marching, Mr. Speaker. The roots of democracy grow wide, and they have begun their spread into Iran, Syria, Palestine, Libya, and perhaps even Saudi Arabia. The list of democratic accomplishments in the region is growing, suggesting that a true change in outlook and culture is occurring in the Middle East.

Syria has begun pulling its troops out of Lebanon. Israel is working with the Palestinian people to pull troops and settlers out of Gaza, and the post-Arafat PLO is increasingly willing to put this kind of diplomacy over terrorism. Libya has begun the voluntary dismantling of its nuclear program, and Egypt has agreed to allow multi-candidate elections.

Any one of these accomplishments alone would be reason to rejoice; but taken together, they signal an ever-growing, irrevocable force for change across the globe. What we are accomplishing in the Middle East is far more than winning the war on terror. We are winning the war of ideas. People around the globe are crying out for freedom.

Democracy, representation, the opportunity to disagree, these are all essential developments that foster freedom; and we are seeing them spread

across the Middle East. People are choosing democracy over dictators and demagogues, and I am extremely encouraged by these developments.

Mr. Speaker, the naysayers among us, those who said fair democratic elections in Iraq would never occur, who said this region would never accept democracy, they have been proven wrong. Freedom is a universal ideal, one that knows no boundaries or borders. As President Bush so often reminds us, freedom truly is on the march.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from California (Mr. GEORGE MILLER).

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

There was no objection.

#### WHY DO THEY HATE US?

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 great unanswered question of the 21st century is, why do they hate us?

We have to find out. The answer relates directly to the safety and security of America and every American, wherever we live.

Why does the world not see us the way we see ourselves? Strong, generous, eager to share what makes us unique. "We hold these truths to be self evident."

Why? Why can they not perceive the America that we know?

Well, several incidents recently give us clues as to the riddle of why the world cannot except our *raison d'être*.

A few weeks ago we strongly objected to the Japanese government's effort to establish a contract with Iran for much-needed energy. We told them do not do it.

This is the continuation of a quarter-of-a-century-old foreign policy initiative: isolate Iran; that will force them to bend to our will.

But Iran is rich in resources, and I think the conclusion follows naturally from these circumstances. When it comes to Iran, economic isolation equals nuclear proliferation.

Attempting to curb, stifle, or choke off the natural economic progress of a nation with supplies very much in demand is unlikely to be effective. It cer-

tainly has not worked for a quarter of a century, no matter which party has had the White House.

Iran is a nation rich in natural energy resources which some nations will seek to leverage regardless of what U.S. policy is.

Today, 14 percent of China's energy needs are met with energy resources from Iran. No one should doubt the obvious. This energy relationship will go on in coming years.

We lean on Japan, but that has no impact on China or Russia or others in the region. If anything, it is an incentive for Iran to deepen its economic and political ties elsewhere.

In attempting to isolate Iran, we may be, in the end, isolating ourselves from the seemingly unstoppable economic and geopolitical expansion in Asia and the Middle East.

A few days after we expressed our extreme concerns to Japan, something happened that did not receive widespread news coverage in the United States. Last year, Japan financed the equivalent of the entire U.S. deficit, \$400 billion.

Now, some in Japan have expressed a preference for the Euro. Japan is our friend, a strong and close ally. It seems to me if our friends are struggling with our foreign policy decisions, imagine what our nonfriends are doing. They are using it to isolate the U.S. from the rest of the world.

Not long after our concerns were expressed to Japan, we showed the iron fist again when Iran, Pakistan, and India began to talk of a pipeline for South Asia across Pakistan to supply energy to starved West India.

The President has defined Iran as the Axis of Evil. The U.S., to put it diplomatically, prefers to end the religious government in Iran where we might change the rhetoric from the Axis of Evil to the access, A-C-C-E-S-S to natural resources.

Our vocal and public expressions against the Iranian Government were noticed. Iran's leaders took a page out of our playbook. We call them the Axis of Evil. They call us the Great Satan.

Lately, the administration has ramped up on the nuclear weapons of mass destruction rhetoric, leaving some to fear or speculate about whether the rhetoric is really the base case for a new preemptive action.

One hears Condoleezza Rice threatening sanctions against those who engage in commerce in Iran. It just so happened that entire nations like India and Pakistan fall into that rhetorical trap.

A proposal to build a pipeline from Iran through Pakistan to serve energy needs in India has been called a peace pipeline. It is the latest positive step between two great nations with a long history of tension and bloodshed.

If the IRA and Northern Ireland can resolve differences, surely there is hope for Kashmir. The signs of hope are there; but like a seed planted in fertile ground, the hope for lasting peace must be nurtured.

Instead, our one-size-fits-all foreign policy aimed at Iran hits India and Pakistan as well. We end up trying to punish Iran by undercutting India and Pakistan.

India's energy problems are real. The future of the nation depends on securing stable energy resources. Yet, U.S. foreign policy meant to punish Iran hurts America's friends and America's foreign policy.

We are telling India and Pakistan to abandon the peace pipeline because we do not like Iran. But we are saying there will be severe consequences for our friends if they do not follow our orders.

Why are we trying to prevent India from solving one of its most pressing energy problems, chronic energy shortage?

We have not isolated Iran. We have merely strongly encouraged Iran to build economic and political relationships everywhere else. We like to pretend our effort in Iran has been effective. I think it is time for us to admit we need a complete reassessment and overhaul of our failing foreign policy beginning in Iran.

In my judgment, it is time to put economic democracy on the table, and there is no place like starting with India and Pakistan.

Their destiny should be in the hands of Indians and Pakistanis. The Administration has been declaring veto power.

Iran, Cuba, and a host of other foreign policy initiatives have shown us that this approach does not work. And our intention to approve or veto the destiny of other nations will not last.

I worry about Iran as much as any Republican and Democrat leader.

But we cannot deny what we know to be true. Our current foreign policy—in philosophy and practice—has been most effective at isolating America.

It's time we revise our vision to something sustainable and tolerable.

We can start by encouraging regional cooperation in Central and South Asia. We can start by encouraging peace, perhaps symbolized by the so called peace pipeline. We have helped Iran win many friends in recent years.

Now it is time to envision a foreign policy which makes it more likely that Iran, the world's second largest holder of natural gas, will focus on developing natural gas instead of nuclear energy that could form the basis for a nuclear threat.

Surely, our experience in Iraq and its problems should have taught us something about the ultimate futility of trying to solve everything with a gun.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

(Mr. KIND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)



UNIVERSAL RIGHT TO VOTE BY  
MAIL ACT OF 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mrs. DAVIS) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today to introduce the Universal Right to Vote by Mail Act of 2005, a bill to allow any eligible voter to vote by mail in a Federal election if he or she chooses to do so.

In my home State of California, voters already have this right. California is one of 25 States that already provides this convenient alternative to voting.

While I personally love the ritual of going to the polls to vote, I know that getting to the polls on Election Day is often difficult. And for some, it is impossible.

That is why I have introduced a bill that builds upon the growing trend of States to bring the polls to the voters. I believe we should try to meet our constituents halfway by increasing access to the electoral process.

What I am proposing is not new or even untested. States ranging from my home State of California to Wisconsin to North Carolina to Maine have already adopted this voter-friendly policy.

Citizens can vote from the convenience of their own homes. They will have more time to mull over their choices and make informed decisions. And they will be able to do so on their own terms, potentially avoiding long lines at the polls.

Not surprisingly, studies have shown that some of the bigger supporters of voting by mail are parents who must schedule time to go to the polls around so many other obligations.

Studies have also indicated that adding the option to vote by mail does not create a partisan advantage for one political party over the other. Republicans and Democrats both benefit from similar increases in voter turnout when voters are given the choice to mail in their ballots.

In fact, overwhelming support for voting by mail is consistent across nearly every demographic, be that age, income level, race, education, employment status, and ideology. It is a win-win for all Americans.

After adopting a universal right to vote by mail system in 1978, California saw a 30 percent increase in the use of mail-in ballots.

In my district of San Diego, 40 percent of voters opted to mail in their votes during the 2004 election. And other States that have implemented this policy have seen the same degree of support from voters, which is why it is hardly surprising that States offering the option of mail-in ballots often experience greater voter participation.

States providing universal access to mail-in ballots during the 2004 election saw a 6.7 percent increase in voter turnout. And again, this increase was uniform across all demographics, including political affiliation.

There is also extremely low incidence of fraud with voting by mail when compared to other methods of voting. The State of Oregon, which runs its elections entirely by mail, has prosecuted only four cases of fraud over the last six elections.

Mr. Speaker, as the former president of the League of Women Voters of San Diego, I care deeply about the integrity of our electoral system. Twenty-five States have already proven this option works and it is safe. It is time to give voters in the remaining States this convenient, secure, and affordable alternative.

While I am proud to be from a State where citizens already have this right, I believe democracy works best when all citizens have an equal opportunity to have their voices heard. Right now, an uneven playing field exists between States that already offer the option of mail-in ballots and States that do not.

□ 2030

When the same election is more accessible to voters in California than it is to voters in Maryland, the system is unfair.

States that fail to offer this choice stand to compromise their leverage in Federal elections by curbing the greatest level of voter participation. We should follow the lead of half of our Nation's States and ensure a uniformity of rights for all voters.

I ask my colleagues on both sides of the aisle to join me in supporting this effort to strengthen the Democratic process and give American voters the choices they deserve.

The SPEAKER pro tempore (Mr. MCCAUL of Texas). Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PRESSING ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this evening I wanted to share my thoughts with my colleagues on some of the pressing issues that I think we have missed, particularly with the schedule that we now have. I think the world is crying out for this Congress to act and to act constructively and productively. There are several issues, both international and domestic, that we simply have failed to address.

I want to associate myself with the remarks of my good friend and colleague, the gentleman from the great State of Washington (Mr. MCDERMOTT) on the progress that India and Pakistan have made. I have congratulated both Ambassadors from Pakistan and India personally for the great leader-

ship shown by the Prime Minister of India and the President of Pakistan, two countries that have been known to be in conflict, sitting down around the table of friendship, talking about energy resources, opening consular offices, solving problems such as Kashmir, working with cultural exchange.

Why should this Nation not applaud them? I hope my colleagues will join me in a resolution that will support and applaud the works of both the President and the Prime Minister of the respective nations. I agree with my good friend from Washington, why should we, with our politics against Iran, eliminate the opportunities for two nuclear giants to begin to solve their energy problems and maybe, by chance, both of them striving towards democracy, having a positive influence on Iran?

So I hope that my resolution offered to the Congress and signed on by a number of my colleagues will be on the floor of the House to emphasize peace.

Today completed the 60-city tour of the President of the United States regarding the issue of Social Security. I am glad, however, that we joined many thousands on Capitol Hill to emphasize that Social Security does not belong to the debate of one single party. In actuality it is an American debate. That debate requires an open mind, but particularly we need to focus the American people on what Social Security is and is not. It is not the private savings account or the bank account for Wall Street. It is not the proof that we are in a capitalist society. It is an insurance program. It provides survivor benefits, disability benefits for those disabled Americans who want to live independently.

Mr. Speaker, it is time to stop going on the road. Come back to Washington, sit down at the table of negotiation with Democrats and Republicans talking about one issue, and that is how to make Social Security solvent. We did it in 1983 with President Reagan and Tip O'Neill, and it was solvent for now 42 years.

There is no reason why we cannot sit down and solve the problem with Social Security without a private savings account that dips into your pocket, takes the money to Wall Street and provides the hugest deficit that you could ever imagine. In fact, to make a private savings account, you need to take \$1.7 trillion out of the Social Security account. We are already in terrible straits with the deficit that is spiraling down and creating a burden on our children and grandchildren.

Mr. Speaker, I want to speak very quickly about the work that we need to do on the Committee on the Judiciary. We need to protect our State courts and Federal courts. We had a very informative hearing before our committee today, but we need to work to ensure that there are more U.S. marshals and Federal laws that will protect and prevent violence against State courts and Federal courts; new laws,

new mandatory sentences to do it, but real preventative measures, which more law enforcement, more training does.

I would also say I have asked the Committee on the Judiciary today to hold a hearing on a horrific video that I saw, a 5-year-old being handcuffed in Florida. A 5-year-old who does not have the intent, cannot go into a court of law and even be judged to have the appropriate intent to be prosecuted or to be able to testify. Two large police officers, one large teacher, and I love teachers, but this, excuse me, administrator, I believe this was a deputy principal, could not handle a 5-year-old. A mother, a working mother on a job that could not get there quickly, but got to school and they would not let her see her 5-year-old. What an outrage.

I believe that school system and that district and the State of Florida needs to be penalized for the kind of reckless, irresponsible stigmatizing of a 5-year-old. You could have called the mental health authorities. You could have waited. You could have given her a toy and a television set to calm her down; but yet two big police officers put her in the police car with handcuffs for a little girl who was disruptive. What an outrage.

I think we can do better than this and I am going to write legislation to punish school districts who do not understand how to deal with 5-year-olds, particularly those who do not understand that 5-year-olds do not need to be handcuffed. Did she have a gun in her hands? A knife in her hands? A 5-year-old.

I hope we can do further work on prescription drugs and meth labs, since even in my local schools we are facing that, Mr. Speaker.

Finally, let me conclude by saying, Mr. Speaker, I think the national ID, the bill that will pass in the Senate that gives us a national ID card with a driver's license, which the 9/11 Commission did not say, we need real immigration reform. Giving national ID cards does not keep the terrorists from the border. We need to protect the borders. We need more border patrol agents. That is how we secure the homeland, not national ID cards invading the privacy of Americans.

#### POWERFUL PHARMACEUTICAL LOBBYISTS

The SPEAKER pro tempore (Mr. GOHMERT). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, today on the front page of USA Today's business page, there was a headline, "Pharmaceutical Industry Goes Furthest to Sway Congress."

Last year the pharmaceutical industry spent \$158 million, just last year, to lobby Members of the United States Congress and Senate.

Now, I know you may be shocked to know that it may not have been in your interest, \$158 million to lobby the Members of the United States Congress and Senate. Since 1998, in 6 years, they have spent three-quarters of a billion dollars lobbying, wining, dining Members of the United States Congress, taking them on golf trips, taking them on vacations, taking them to conferences, taking them out to meals, all to tell them about their industry.

There are 1,300 pharmaceutical registered lobbyists. There are only 535 Members of the United States Congress and Senate. There are 2½ lobbyists for every Member. Three-quarters of a billion dollars in 6 years, \$158 million last year alone, and 1,300 lobbyists working on behalf of the industry.

About 475 of them, according to this article, are former Federal Government employees; 40 of them are former Members of Congress. It is the most influential and well-financed lobbying operation in Washington.

Challenging the drug companies is always a costly undertaking, and, more often than not, it is a very difficult one and a losing one. But I want you to know what you are getting for your \$158 million.

Congress, when it passed a prescription drug bill last Congress, the 108th, we prevented the United States Government from negotiating prices like the Veterans Administration does, like Wal-Mart does, like Sam's Club does when they want to negotiate. When they want to deal with a supplier they negotiate best prices, not the United States Government. It explicitly prevents the United States Government from negotiating on behalf of Medicare for 43 million seniors for the lowest possible price.

What does it say to our taxpayers? What does it say to our senior citizens? We are not going to do best business practices like Sam's Club, like Lowe's, like other people who negotiate price. We will send you out there and make you pay the highest price possible, which is why the United States taxpayers and senior citizens pay the highest pharmaceutical prices of any major industrialized country in the world. That is what you got for their \$158 million.

What else did we get for that \$158 million that they spent lobbying Members of Congress? We got a bill that prevented the reimportation of pharmaceutical products from Canada and Europe so we could not get competition and choice in the marketing of prices. That is why people in Canada pay 50 percent cheaper prices than we do here in the United States.

What else did that \$158 million get? It does not allow generic medications to come to market to compete against name-priced drugs. Every principle of the free market, whether you negotiate prices based on Medicare, just like Sam's Club, whether you allow competition through the free market and allow people to buy their drugs in Can-

ada and Europe and use competition for Lipitor and for other types of products, or whether you allow generics to come to the market in a speedier time to compete against the name brand, every principle in the free market was prevented.

We have a captive market in this country. We pay the most expensive prices. And the irony of ironies is that the American taxpayer through the R&D, Research and Development tax credit, subsidizes the research for the products that we buy, and we pay top dollar. That is why somebody has to do something about the \$158 million, the three-quarters of a billion dollars, in 6 years, spent on behalf of an industry that has got the best government they can get for their resources they spend; 1,300 lobbyists working for the pharmaceutical industry; 2½ lobbyists for every Member of Congress.

When you are working on their legislation, if you work down the halls of Congress and you see a shadow, it is usually theirs, not yours. Three-quarters of a billion dollars in 6 years, \$158 million last year alone.

It is estimated that the United States Congress, when it passed the prescription drug bill last Congress, that it resulted in an additional \$150 billion over 10 years to the industry's profits. They know what they are doing. They know what they are getting for their money. They know what they are getting for their meals, for their lobbying, for their trips; but it is time that this Congress spoke up on behalf of the American people, the people that elected us, both the taxpayers and the senior citizens, and get them the types of medications they need at prices they can afford, and stand up to the lobbyists from the pharmaceutical industry who are only representing their narrow interests and have lost sight of what we have to do to represent the American people.

#### CREDIBLE ETHICS PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, on March 1 of this year I introduced a resolution, House Resolution 131, that would repeal the ill-conceived amendment to the House ethics rules that were included in the rules package adopted at the beginning of this Congress.

Although this resolution has now gained 208 co-sponsors, the Committee on Rules to which it has been referred has not yet taken any action on it. Accordingly, it now becomes necessary to begin to invoke the procedures provided by House Rule 15, to discharge a measure from the committee.

To that end, today I am introducing a resolution that provides terms for the consideration of House Resolution 131 by the full House. Under House Rule 15, a discharge petition may be filed

with regard to this resolution after 7 legislative days.

Mr. Speaker, I want to reiterate that what is at issue with House Resolution 131 is, in fact, whether the House of Representatives is going to continue to have a credible ethics process that can be effective in protecting the reputation and the integrity of this great institution. And for at least two reasons, the House will not and cannot have a credible ethics process unless the Republican-inspired rules changes made earlier this year are repealed.

First, there cannot be a credible ethics process in the House unless it is genuinely bipartisan. By definition, the Committee on Standards of Official Conduct was created as a bipartisan organization within a very partisan body, and its rules have always been fashioned through a bipartisan task force.

□ 2045

Until this year, the House clearly and repeatedly recognized that bipartisanship must extend to the creating of the rules under which the Committee on Standards of Official Conduct conducts its business; and in the past, changes in those rules were made in an open, in a thoughtful, and in a genuinely bipartisan manner.

But this year, Mr. Speaker, in contrast to past tradition, the rules changes were drafted solely on the recommendation of the majority, in a partisan, in a closed, in a secret process in which no one on the Democrat side of the aisle was even consulted. So the rules were adopted on a strict party line vote: all the Republicans voting for; all the Democrats voting against.

Mr. Speaker, this is the most partisan vote we cast in the House of Representatives. Never in the history of the Committee on Standards of Official Conduct has there been an attempt to impose rules in this manner on the Committee on Standards of Official Conduct.

Mr. Speaker, the second concern about these rules changes is there has been an attempt to impose them on the Committee on Standards of Official Conduct in a very partisan way, but the rules in and of themselves are extremely damaging. The fact is that, at a minimum, these rules changes will seriously undermine the ability of the Committee on Standards of Official Conduct to perform its key responsibilities of investigating and making decisions on allegations of wrongdoing.

These rules changes fall into three categories.

First, there is the so-called automatic dismissal rule under which a complaint against a Member that is filed with the committee can be dismissed solely with the passage of time, no consideration of its merits. Under this automatic dismissal rule, that period of time can be as brief as 45 days from the date that the complaint is deemed to satisfy the procedural requirements of the rules. Previously, a complaint could be dismissed only by majority vote of the committee.

The effect of this automatic dismissal rule will be to give the committee members a means by which they can avoid their responsibility to give thoughtful, reasoned consideration to every complaint and to all of the charges in every complaint. Its ultimate effect will be to provoke partisanship and deadlock among committee members as they wait for the clock to run out. Does the majority really want this result?

Another of the rules changes is that it grants certain so-called due process rights to Members. One of those rights is the right to demand that the Committee on Standards of Official Conduct conduct a trial on a matter on which it has not even conducted a formal investigation. This so-called right would place the committee in the position of having to hold a trial on a matter in which it has not issued a single subpoena. Does the majority really want this result?

The third rule change, Mr. Speaker, is the so-called right to counsel provision which might be better characterized as the right to orchestrate testimony provision or the right to allow collusion among the accused and the witnesses. It would provide that one lawyer can represent the accused and all of the witnesses. Does the majority really want this result?

Mr. Speaker, I continue to urge my colleagues to look closely at the rules changes and the partisan manner in which they were adopted. By adoption of House Resolution 131, the House can begin to undo the damage that has been done to the ethics process, and we will be able to have once again an ethics process that commands the confidence and respect of both the Members of this body, and Mr. Speaker, most importantly, the American people, who, I believe, on a bipartisan basis want a bipartisan Committee on Standards of Official Conduct.

#### APPOINTMENT OF MEMBERS OF THE HOUSE TO UNITED STATES CAPITOL PRESERVATION COMMISSION

The SPEAKER pro tempore (Mr. GOHMERT). Pursuant to 40 U.S.C. 188a, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the United States Capitol Preservation Commission:

Mr. LEWIS, California  
Mr. SHUSTER, Pennsylvania.

#### COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,  
OFFICE OF THE DEMOCRATIC LEADER,  
Washington, DC, April 26, 2005.

Hon. J. DENNIS HASTERT,  
Speaker of the House, House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to (40 U.S.C. 188a), I hereby appoint Representative MARCY KAPTUR of Ohio to the United States Capitol Preservation Commission.

Best regards,

NANCY PELOSI.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, votes on motions to suspend the rules postponed earlier today will be taken tomorrow.

#### 30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, once again, it is a pleasure to be before the House along with my colleagues of the 30-something Working Group. We would like to thank the Democratic leader for allowing us, once again, to address the Members of the House and the American people on issues that are facing the 30-somethings and the entire population of the United States.

I think it is important as Members of Congress that we understand our obligation to the American people, making sure that they fully understand what happens in their house of democracy.

Many times in Washington, D.C., we are here, we are making decisions that are going to affect all of our constituents and even ourselves and our families. So I think it is important we take it very seriously.

We come back again tonight. Of course, we have the gentleman from Ohio (Mr. RYAN) and also the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), my good friend from south Florida; and we are here to talk about Social Security. So I think we will just start off just kind of talking about some of the things and some of the events that took place today.

This was a very eventful day for Social Security and making sure that Americans are able to get what they deserve as it relates to their full benefits on Social Security and making sure that we do not gamble with their retirement.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Absolutely, this was a unique day.

Apparently, we reached the 60th day that the President has been out in America trying to sell the American people on his vague outlines of his proposal to privatize Social Security; and quite honestly, at the conclusion of the

60 days, apparently he has said that he wants to go out for another 120 days.

We had a rally today with more than 1,000 people in the crowd and over a hundred Members of Congress from both the House and the Senate Democratic caucuses, standing completely united in opposition to pulling the safety net out from under our retirees' retirement security, and we stood strong. We stood together. We stood together when people did not think that that was possible, that there was definitely, over the last few months, a lack of confidence that the Democrats would stand together united opposing privatization. We have all the way up until today and we will continue to be standing in opposition to privatizing Social Security.

Actually, at the conclusion of today's rally, we stood together and said, Mr. President, please do go out for another 120 days and tell the American people that you want to pull the safety net out from under their retirement security because apparently the more he talks about it, the less the American people like it. So we encourage the President to continue to go out and talk about it, continue to restrict the crowds and limit the access to his town hall meetings where he checks tickets at the door, checks people's philosophies at the door, as opposed to our effort where we are being as inclusive as possible.

We do not screen our crowds. We had more than 400 town hall meetings across the country in our districts as House and Senate Democrats, and we take all comers. Some of us have had maybe a couple of people here and there who have come to our meetings and said why do you not give the President's proposal a try, but almost universally our Members have experienced the communication from our constituents that, above all else, they expect us to be up here in Washington and protect their retirement security.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. No doubt about it, of all the Social Security meetings that I have had, not one citizen in my district has stood up and said anything to the effect of let us take a close look at these private accounts. Young people included have been coming. I have three universities in my district, and even the young students still recognize it.

We get kind of cynical maybe every now and again up here and think that somehow that spin and manipulation somehow will always work; and the facts maybe do not always get out, but I find it very heartening that the President can go out and try to sell a proposal and poll after poll after poll continues to show him losing support on this. I think it is very heartening to know that the American people pay very close attention to these issues especially when they affect their pocket-

book like Social Security does, and they look closely at what the President is talking about, and yet they still disagree with what the President is saying.

It is very good, and I think that the key factor is that the President's proposal weakens Social Security. It does not strengthen it.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, if the gentleman would yield, I think it is important to highlight, again, this is the 60th day of the President's nationwide, cross-country tour; and one would have expected with the bully pulpit that he has the momentum that he believed that he was going to be able to build behind his vague proposal that by the 60th day, by today, that he would have Americans swinging from the chandeliers in the Capitol, insisting that we take up his proposal and that somebody file a bill.

We have yet to see a bill offered in this Chamber or in the Chamber across the rotunda, and I think it is interesting to note that these are some of the comments and analyses that have been made at the conclusion of his 60-day tour:

"The President's campaign has frightened people, raising concerns that guaranteed benefits could be cut," said William Schneider, who is a public opinion scholar and CNN analyst. "There's very little evidence in polls that Bush's campaign has been effective."

"As he nears the end of a 60-day cross-country campaign, President Bush appears to be further from achieving his signature goal of transforming Social Security than when he began." That was from USA Today just yesterday, and that was the tip of the iceberg in terms of the commentary and analysis.

I just wonder when the President and the leadership of this body are going to get it. When are they going to tell us, when are they going to come to the gentlewoman from California (Ms. PELOSI) and to the gentleman from Maryland (Mr. HOYER) and say, okay, we are taking privatization off the table; clearly we do not have any support for that; Americans do not want us to compromise their retirement security, and we are ready to come to the table and compromise, like they did in 1983 when Tip O'Neill and Ronald Reagan came together and preserved Social Security for generations to come. It is just mind-boggling. It really is.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman would yield, it makes you wonder. You go 60 days. You do not sell your program. In fact, it gets progressively worse every trip that you make, and then you decide that, well, we are going to go out for another 60 days.

It makes you wonder if this thing is not a distraction from some of the real issues that we are facing today, and I hate to be cynical in the 30-something group. We are supposed to be the opti-

mists of this body, but it is very difficult for me to believe that this maybe is not a little ploy to distract and say, look over here while we cut Medicaid, we cut food stamps, we cut community development block grants, we cut veterans benefits. Look at the real issues today. The President is trying to say this is a great crisis; 2042 is when we have before there is any structural change at all in the program.

Gas prices, I am sure my colleague is hearing about that in her district because of the oil costs, health care, immigration, issues, the Chinese and manipulation of their currency and dumping into our markets. Instead of saying we need to focus on an alternative energy program so that we could somehow reduce the cost of gas at the pumps, we are talking about a manufactured crisis that starts in 2042, not dealing with the day-to-day pocket-book issues that the people in my community and Florida have to deal with every day.

□ 2100

Mr. MEEK of Florida. Mr. Speaker, I want to make sure that my colleague was able to get that thought out, because it is so very, very important, what he was saying.

I tell you this: I was encouraged. I was not only encouraged by the polling numbers released recently but also about the number of people that showed up at the rally today here at the Capitol; and many of them looking forward to getting to that Social Security age were not silver and blue-haired individuals saying it is about me right now. These were hardworking Americans that came to this Capitol, to this great democracy we speak of, so their voice can be heard. I can tell you that I was encouraged.

Mr. Speaker, I may digress a little as it relates to talking about what Social Security is all about, but I think it is worth saying that Democrats, not only here but in the other body across the hall, and in general here in Washington, D.C, we believe in bipartisanship. We talk about the 1983 vote an awful lot, but I want to let you know that in 1983, when Ronald Reagan, then President, and Tip O'Neill, then Speaker in a Democratic House, passed a bipartisan Social Security plan that would keep Social Security solvent for another 47 to 50 years, as it relates from this point on, from right now, today, as I speak, 100 percent of benefits going to the individuals that would be receiving it, be it in survivor benefits or retirement benefits, and it was a bill of bipartisan nature. In 1983, we passed a bill saving Social Security, with 243 Members voting for it and 102 voted against it. Eighty Republicans voted for it, 163 Democrats voted for it. That is bipartisanship. That is a bipartisan bill.

And we are not going to get there if the individuals that are in charge, the majority seems to be the Republicans in this House, do not come to grips in

having a true bipartisan dialogue in saving Social Security, and not the rhetoric of someone else wanting Social Security to be privatized. I am not talking about Wall Street, which is going to benefit by some \$940 billion if Social Security is privatized. That is a guarantee to them. But what is a guarantee to the people, our constituents, Democrats, Republicans, independents alike? The only thing they have guaranteed is their \$26,000-and-change in a Federal debt they are going to have to pay because the President wants to continue to talk about this privatization piece.

One other thing I just want to add. I think it is important people understand the numbers on Social Security. Forty-eight million Americans are enjoying those benefits right now. Some people want to talk about where is the Democratic plan? Well, where is the Republican plan? Right now, we are talking about philosophy. There was a hearing over in the Senate. Well, there are hundreds of hearings on this Hill every day. Still, we are not at the point to where we can come to grips on a bipartisan approach. On this side of the aisle we are saying we want to be bipartisan.

Now, hats off to Americans. The reason why no one is marching with a plan and we do not have a binded copy of some plan is the fact that the Republicans know full well, the Republican leadership, and there are some colleagues on the other side of the aisle that are saying no way, Jose, if I can say that.

Mr. RYAN of Ohio. You can say that.

Mr. MEEK of Florida. No way we are going to hand up our constituents because someone else wants to privatize Social Security. I did not sign up for that. That is what I am hearing some of these Republicans saying. It is a very small number, hopefully a growing number, because I believe for those that are speaking boldly about privatization of Social Security, I think they are making a career decision, a career decision in a democracy where people believe in having the retirement that they were promised.

The other point I want to make here is to mention today's newspapers, and I took some sections out. Account after account of Americans not being with the President on this. I am sorry, this is not the Meek-Wasserman-Schultz-Ryan Report. This is reality. Now, if the President wants to burn Federal jet fuel, taxpayers' dollars, at \$55,000 an hour to fly on Air Force One to go tell people, and I might add these are canned crowds of individuals who have love and respect for the President, and I also have respect for the President, for the office that he holds, because he is my President too. He is President to us all. We support him as our Commander in Chief. But when we are wrong, we are wrong.

So I do not care how many times you say, oh, well, privatization is good and we will save Social Security. Matter of

fact, he said to the contrary; that it would not alone save Social Security. So I am proud of the people that are out there saying what they are saying. But I think it is important that we remember if this is about future generations, then the President is doing just the opposite. We are talking about \$26,349.67, the average 30-something; the average college student that is graduating with a postgraduate degree or what have you, on average, \$20,000 in debt. Add to that the \$26,000 of the Federal debt they are going to have to pay, and you might as well make that \$46,000 and some change.

Mr. RYAN of Ohio. And growing.

Mr. MEEK. And growing.

Mr. RYAN of Ohio. Mr. Speaker, if I may interrupt the gentleman, I would add that tuition costs are doubling, and this number keeps growing every week. Every single day this clock is actually ticking here, \$7.79 trillion. We lifted the debt ceiling a few months back, and this number is also ticking. So we are talking in a few months you are going to be up to owing the government or student loans or banks \$50,000.

Imagine a kid being born today owes \$26,000. Is that opportunity? Is that ownership? Is that freedom? All the big themes that we like to talk about in Washington, D.C. This is trapping a generation of kids.

Mr. MEEK of Florida. And that is a perfect point, Mr. Speaker. Sometimes in our spare time, as we fly back and forth from our districts that we represent, I do a little something with that number, that \$26,349.67 and counting. You could buy a new car for that, every American, not just Americans living in certain parts of the country.

Ms. WASSERMAN SCHULTZ. A pretty decent car.

Mr. MEEK of Florida. Yes, a pretty decent car. You could pay for 4 years of education at a public university. I got that from the College Board. For some of our young people, freedom in America, that buys about 2,250 CDs. I mean, we are talking to America here. You could also go on a luxury cruise around the world for four. You could buy groceries for five families for a year. That is from the Congressional Budget Office. You can put a down payment on a home. Well, that sounds like a great idea. We want more Americans to be in homes.

Mr. RYAN of Ohio. Bingo.

Mr. MEEK of Florida. You could start a small business. You could fly from New York to Hawaii and back 12 times.

The President is marching around here, and the majority side is marching around here saying we are trying to preserve Social Security for future generations; meanwhile it is not tax and spend, it is borrow and spend, and continuing to borrow. They are on borrowfest. They cannot stop themselves. So when folks start talking about, well, the President is flying around and burning taxpayers' dollars at \$55,000 an hour, that is more than

two or three people make in a year in America.

Now, I am not shocked, because the evidence speaks to the highest deficit in the history of the Republic. He cannot help himself. Neither can the members of the majority side help themselves. And I cannot understand how the leadership, and I say the leadership because I do have friends on the other side that get it, and it is up to us here in Congress to make sure. Here on the Democratic side we have our act together, and a number of Members have that number outside their office to remind people when they come walking the halls to see their Member of Congress, this debt is continuing to click. So we have to make sure as Americans that we vote principle over politics. Principle over politics.

So if you are working right now, and if Americans pull their check stubs out right now and look at what they pay in Social Security, and they have the majority side here saying, the leadership once again and the President saying we are looking out for you, meanwhile we are going to add \$5 trillion onto that number, meanwhile we are going to cut your benefits.

What they put out as it relates to their plan, they are going to lose 20 percent of their benefits right now, or more, on a gamble of privatization. I cannot understand it. But I can tell you one thing: The American people are not buying it because the polling numbers are reflecting that.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, my colleague and I from Florida are parents, and I know the gentleman from Ohio (Mr. RYAN) probably plans one day to be a parent. This is the 30-something Working Group.

Mr. RYAN of Ohio. If my wife says it is okay.

Ms. WASSERMAN SCHULTZ. Exactly. Once you get permission. And, believe me, I know that is definitely something that moms need to grant, or potential moms need to grant permission on. But we have little kids, and anyone out there that is a parent can understand what I am going to talk about now in this way.

It is mind-boggling that the President has not gotten off, after 60 days, the concept of privatization. I liken it to when my children do not like that I have told them no and they stamp their feet and they throw a tantrum. Now, I generally try not to give in, like we are not.

I feel like the Democratic Caucus in the House and Senate are the parents of a child in the White House throwing a temper tantrum, who is insisting that he get his way. And regardless of how many times he is told that he cannot have his way, that sometimes we have to compromise, sometimes we cannot have it exactly the way we want it; just like I explain to my children and I try to sit down and rationally explain to them that we are going to try to give you some of what you want but you are not going to have it

all your way, he continues to stamp his foot just like my kids sometimes do.

It was not lost on me that that was an appropriate analogy. I am certainly hopeful, like I am hopeful with my own kids, that one day they will grow out of it. We keep waiting for the President to grow out of the temper tantrums. It should not be surprising, because we come from a State where his sibling engages in similar activities. It seems to be a family trait. They do not seem to get the message when they are told by their constituents that they are not in agreement with what they are suggesting. They do not appear to be willing to let go and come to the table and compromise.

Now, another analogy I want to draw would be if we were, as Democrats, sticking our heads in the sand because we support Social Security so strongly. If we were here saying there is no problem, Social Security is fine, we should not do anything, then we would be just as guilty as the President and the leadership of this Congress are. But we are not saying that. What we have said from day one is that there is no crisis; that the crisis is manufactured, as my colleague from Ohio said; that we acknowledge that there is a problem, but there is not a problem that reaches anything that we should be significantly concerned about until we in this 30-something Working Group are well into our seventies.

Literally, 36 years from now, in 2041, I will be 74 years old, long past retirement age. When we ask most of our peers, if you ask your friends and our neighbors and friends who are our age, do you think Social Security is going to be there for you, most of our peers do not think it will. But the reality is that it will be there even if we do nothing. And we are not suggesting that we not do anything. We are suggesting that, just like in 1983, that reasonable people on both sides of this debate should come to the table, should try to find some common ground, and should not continue to kick and scream and insist that it is their way or the highway.

Another thing that I wanted to point out, and this is difficult to say, but it is hard to feel that the President is sincere on this issue. When I have a town hall meeting, and I am sure it is this way for my colleagues, I know it is for my colleague from Florida because I have done town hall meetings with him, I really want to know what people think. That is why I do not screen or ask for tickets or check people's opinion at the door.

Literally, the Secret Service this week sent agents to Denver to probe allegations by three area Democrats that they were ousted from President Bush's March 21 event. The three did not stage any protest at the rally and were later told by the Secret Service they were removed because their vehicle displayed an anti-Bush bumper sticker. White House spokesman Scott McClellan said the man who removed

them was a GOP volunteer, but apparently Mr. McClellan refused to divulge his name or whether he works in Colorado or Washington.

What Mr. McClellan said to this reporter is if someone is coming to an event to disrupt it, they are going to be asked to leave. Apparently, if you have an opinion that differs from the President's and from the message that is designed for that particular town hall meeting, you are not welcome, even if you plan on sitting there and saying nothing.

Now, I heard the President's State of the Union, I heard his Inaugural address, and I heard him talk about democracy. I heard him talk about promoting democracy around the world and how important it was that the greatest democracy in the world set an example, that we be the shining beacon of democracy around the world and that we export democracy.

□ 2115

Well, you know what, how do we do that if we are not setting the best example of what democracy is all about. Would we like it if other nations, other fledgling democracies, started mirroring the conduct that the President is engaged in? I do not think so. I think if we heard an independent news report about some of the activities that the President has engaged in in this debate, we would be outraged.

Mr. RYAN of Ohio. And we see where the Russians and Mr. Putin are beginning to crack down on a lot of the democratic movements, taking over a lot of the media, and when a guy like Mr. Yushchenko comes here from the Ukraine, with the scars to prove his fight for democracy, and he stands in front of this Chamber to address our constitutional body that we have, what kind of example is this to send? Yet in the same breath talk about freedom, talk about opportunity. Members would think that as either a legislator or executive, you would want to hear what the dissent is so if you were right, then you would be able to address the issue and explain why you are right.

I think why we see the President's numbers going down, he is speechifying. It is not a give and take at town hall meetings. He is kicking people out if they have an anti-Bush bumper sticker on their car, and pretending like they are the Secret Service. And that is reported. It happened out in Denver, and they are investigating it now.

Answer the concerns of the country, and we will see progress as you begin to advocate and argue for your side.

Funny, the gentlewoman would say that on her flight in from Florida she crunched some numbers, and my flight from Ohio is only an hour, from Cleveland; but I was able to work some numbers, too. We have mentioned here before that if we implement the President's proposal of diverting money into the private accounts, there will be a \$5 trillion hole in our budget. Somehow

we have to plug the hole. We are going to have to borrow the money and pay interest in order to fund the private accounts.

I did some math trying to figure out what \$5 trillion could do for other programs. And since this is the 30-something Hour, I wanted to focus on Pell grants and we were able to get it printed off the cocktail napkin that comes with the Diet Coke and the peanuts on the plane. For Pell Grants, \$5 trillion over 20 years could raise the maximum Pell Grant from \$4,050 to \$59,500. Right now 5.3 million students get the \$4,000 maximum, but with the \$5 trillion we could have 23.7 million students receive \$59,500 worth of college grants to go to schools.

Mr. Speaker, \$60,000 would take care of undergrad, masters, and Ph.D. It would get students educated. Many people do not need \$60,000 for just a bachelor's degree, so we could cut it in half and give \$30,000 to 47 million students.

This is just to illustrate a point. Just think if we plug a hole in a risky ponzi scheme that we are going to have. But imagine if we made this significant investment in education. Imagine the value that would be created from that.

We did a study in Ohio, and for every dollar the State of Ohio spent on higher ed, the State of Ohio would get \$2 back in tax money. Imagine what the return on this investment would be. It would be significant. We would have educated, well-rounded citizens participating in democracy, more tolerant, more creative, creating wealth in our society.

What kinds of investments are we making otherwise? We are going to borrow and plug a hole with \$5 trillion. What value do we get from that? We are losing jobs left and right, and the biggest crisis is a problem that is in 2041 when we are 70 years old.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, what the gentleman is saying is absolutely true, and to just continue on the same theme the gentleman is referring to, if we are going to talk about crisis and things that are looming that we need to deal with, why are we not talking about Medicare? The President should be stumping around the country to get the Congress to address the looming crisis in Medicare because it could be more easily argued that Medicare's insolvency, which is much sooner than Social Security, is really going to cause us some tremendous problems.

The gentleman from Florida (Mr. MEEK) and I are from a State that if Members want to talk about a crisis, if we have a crisis in Medicare, our constituents are really going to have a dire, serious problem. If that problem is not addressed, then there are senior citizens across this country who will die. There is no question if we do not preserve the ability to provide health care to senior citizens who under this proposal are already going to be in jeopardy because their retirement security is going to be pulled out from

under them, on top of that if we do not fix Medicare, we will not provide them with health care.

I would love to see the President stumping to try to address that problem. I can assure the President he would have a lot more willing participants, at least on our side, at least from me and from Members who represent States with significant senior populations.

Social Security is often thought of as just a program that benefits senior citizens; and people think if you did a man or woman interview on the street, and asked people who benefits from Social Security, virtually everyone on the street would say that Social Security benefits senior citizens.

In Florida, for example, children who are under 17, there are 174,500 current Social Security beneficiaries, kids who are receiving Social Security either because they are dependents of people receiving SSI because they are disabled or they are survivors of a deceased Social Security recipient. Again, that number is 174,530 kids under 17. And between the ages of 18 and 39, 71,870 Floridians receive Social Security benefits.

That is one of the things that has been lost that each week we have been trying to drive home, lost in this privatization debate. The President has basically wiped the table, or essentially wiped the floor, to be a little more direct about it, when it comes to the people who collect Social Security because they are disabled, which is a third, who are disabled, who are survivors and are receiving survivor benefits. They do not earn an income, so what happens to them when we privatize Social Security? Or when there are annuities and we yank Social Security benefits out from under people who are earning an income, and we are doing nothing for people who are survivors or who are disabled? It is like they do not exist. It is like if we ignore them, maybe they will go away.

I have yet to hear a response from the President or the leadership of this Congress about what we are going to do to help people who are disabled and who are survivors of Social Security recipients when Social Security is privatized and then shrivels up and blows away.

Mr. RYAN of Ohio. Mr. Speaker, from where I come from, that is a moral issue. That is a moral issue. What do we do with those people who need the help, who access or utilize this program as an insurance program when they lose a spouse at a young age and they have kids, they have survivors, which is a third of the program. That is a moral issue, and we talk a lot about morality, and it has been so narrow and focused on just a couple of issues.

Are we going to say as a country you are on your own again and roll it back to before we implemented the Social Security program? It has been successful. It works, and there are a lot of people out there who have benefited. This

was an issue at one of my town hall meetings. There were three or four who came, and it was strictly based on survivorship, disability, and people who have just had a lot of bad luck.

We try to pin labels and say this certain segment is lazy, they do not want to work, they want the easy way out. There is a lot of people trying to make their way out working very, very hard. And for one reason or another, they are sick and make a couple of bad decisions. It is amazing. The more I get out and hear these stories, how many people, one car accident, one sick family member, one death in the family, and the whole thing collapses. This program has been there to say to those folks we are here for you and the government is going to be here, society is going to be here to help you.

Mr. MEEK of Florida. Mr. Speaker, it is important that everyone understands we come to this floor once a week to share with Americans the truth about what is going on here in Washington, D.C. We are the 30-something Working Group, but this affects the entire family. When there is a family member who has a problem, Social Security is there for them. That alleviates the financial burden on the rest of the family. To be able to say we are a big family and we are going to take care of one another, guess what, times are not good for everybody. You are going to run into those real-life issues. Someone is working now and they pass on, for those individuals that are 17 and under, the only thing they have are survivor benefits. That is something that you leave for your child.

Spiritually, emotionally, the best contribution and the highest contribution you can make to society is to make sure that your children and grandchildren have a better opportunity than you have had. The gentlewoman talked about the President coming to this Chamber during the State of the Union and talking about Social Security. The first thing the President said, if you are over 55, do not worry about it. So I guess folks over 55 are supposed to say, son, daughter, brother, sister, good luck. I am okay, I am over 55, but you better start saving.

Let me say I cannot believe the information that this administration and the majority-side leadership give us. Now, I said this last week, I said it the week before, I said it the week before that, and I will continue to say it because we have to remind Americans you cannot believe everything that your leaders say. This is not about the President and do we like him or not. The election is over. He cannot run again constitutionally. They may try to change that, but as it stands right now, the President cannot run again. So this is not about somebody standing in judgment of his political future.

During the Medicaid-Medicare prescription drug debate it came to the floor, and the President and his office said it would be \$350 billion for a pre-

scription drug plan, or lack thereof. Later it moved up to \$400 billion. This is from news accounts and also from official documents here in the Congress.

After the debate, after we passed the bill, and I voted against it because we could not negotiate for lower prices. I am from Florida. This is real-life experience. There are seniors, and in that \$26,000 number, you can pay for prescription drugs for 11 Americans for the entire year. We are talking real money here on the whole borrow-and-spend issue.

Then we found out recently that the true cost is \$724 billion, which is all borrowed. This is not money that we have stacked up on the shelf somewhere, and this is real money, and this is what we are spending.

Folks say, where is the Democratic plan? Guess what, the Democratic plan is in your wallet right now. The bipartisan Democratic plan, the bipartisan continuation of that plan is in your wallet right now. It is those Social Security numbers that you write down every day or every time you fill out an application or you are applying for some sort of credit card. That is the original Democratic plan.

□ 2130

We have 48 million Americans that are celebrating benefits right now from Social Security because we held our word on the deal that it will be there for them when they need it. Thirty-three million of those Americans are receiving retirement benefits of the 48 million. So we have 33 million.

The President says do not worry about it. I say be very worried from what we know right now and what history speaks to as it relates to accurate information. Forty-eight percent of the 48 million that are receiving benefits right now, 48 percent of them would be under the poverty line if it was not for Social Security.

This is serious business. This is not if one likes the President or not. This is not a popularity contest. This is for real. And I must say, Mr. Speaker, under his plan, or under his philosophy, they will only receive 80 percent of what they have right now and they will only receive \$516 a month. Under the plan right now, original Democratic plan, continuation in 1983, the bipartisan plan that was handed to the American people, as we stand right now, will be in force for the next 47 to 50 years, and then after that 80 percent of the benefits will be there for them. On average they get \$955 a month. Imagine going from \$955 a month down to \$516 based on a privatization gamble.

Some Members say there are some Members that are emotional about this. They are right. I am emotional about it because I have constituents who woke up early one day on a Tuesday and went down and voted not only for me but for democracy and to make sure that their voice is heard in this Chamber. And I guarantee my colleagues, as long as I am a Member, as

well as the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and I am pretty sure all of us, they are going to be represented. I do not care if they are Republican or Democrat or Independent or Green Party or what have you. Even if they do not have a voter registration card, it is important that we stand on their behalf.

So wrong is wrong and right and right. And I will tell my colleagues right now some Members on the majority side, especially the leadership, are dead wrong on this issue. And let us just talk a little bit about 1101 grass roots, what happens here within the rules of this House. If we were in the majority, and when I say "we," mean Democrats, with our present leadership right now, if the gentlewoman from California (Ms. PELOSI) was the Speaker of this House, the conversation would be a lot different. It would be about saving Social Security, continuing to save Social Security, a bipartisan plan, if that was the issue of the day, because the real crisis, going back to what the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) said, is we do not have health care. We have 46 million Americans working, not sitting at home cracking their toes saying the job situation looks sad. These are individuals that wake up every day and go to work that do not have health care insurance. And local communities are falling to their knees because public hospitals are going under, because the Federal Government is just not there.

For another 3, 3½ years, if left up to the mechanics of this House, if something does not change in the next election as it relates to leadership, look forward to having to pay through the nose for health care insurance. That is a crisis. And I have companies in my district now that are telling people that are coming for jobs, to apply for Medicaid, they get more benefits. Hello. Apply for Medicaid, they get more benefits? Because they cannot afford the premiums on the insurance. And meanwhile we are running around here talking about a pie-in-the-sky privatization plan that is risky at best, and we are asking Americans to gamble, and we are spending their money, telling them something that the polling has indicated and a number of Members in this Congress, especially on the Democratic side, have said it is just not going to work.

So this is something that we have to continue to work very hard on. Some people say why are we all talking about Social Security? It is our issue. It is an American issue. It is an issue that is facing every American. It is a \$26,340.67 issue.

The baby who was just born when we started this Special Order here tonight already owes the Federal Government \$26,000 and change, and climbing. So we have to put a stop to this, and we have to make sure that Americans fully understand that what they have right now in their wallet, the Social Secu-

rity they have been writing down as their ID number when they went to school to better themselves, go to college, those that went into vocational trade school or what have you, vocational education school, Social Security is there and it is an American-produced program that the rest of the world envies. They envy this.

So in closing, before I yield to my colleagues, I am just going to say that this is extreme. I am going to use the word. It is extreme. It is extreme for people to say or for the leadership to say that private accounts are good, "It is good for you and it is good for me." That is not true. It is extreme.

When folks are running around here saying we want to change the rules because we are not getting 110 percent of the judges to get confirmed through the other body there, that is extreme. And extremism is not going to help us come together as Americans. It is going to divide us. And I guarantee my colleagues this: I said it on this night, if I have got to stand by myself on it, the American people will make those individuals pay for being extreme. And I think the 109th Congress, unfortunately, will be remembered for taking extreme measures in a time when we should have been focusing on other issues such as health care, such as prescription drug care, such as making sure that our children are not in overcrowded classrooms and making sure that our teachers have what they need to be able to teach our future generations and small businesses are able to get loans to be able to keep our economy going. There are a number of issues, and I could go on and on and on, as my colleagues know.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I would just like to make a point. He mentioned dissent and debate, and we talked a little bit about it here tonight. This body has a constitutional obligation to voice our concerns and our opinions. And that is why the rules of the House are set up so that we can get an hour here to talk about it and voice our concerns and talk about what we believe and what our approach would be. And I think it is important that we do get out here, and I think the Democrats have done a great job, leaders in both Chambers have done a great job, of fulfilling our obligation to our constituents to go out there and at least recognize that the President's plan is not resonating, and that we have an obligation to go out there and be critical if we need to be and say that the plan is extreme and say the plan is radical.

I do not think there is anything wrong with that, because in 1994 and the years leading up, the other side was very critical of the President for a long while. They have gone back on what they said they were going to do in 1994, balanced budget amendments and bal-

ancing the budget, and this thing just keeps going up and up and up. So they obviously have not fulfilled some of their goals that they set, but they were critical of the President, and they had a right to do that, and they won the House back. And now they are overstepping. Now we are being critical. And I think the American people are going to see that the Democratic Party has something to offer.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman for yielding to me.

I think it is really safe to say that both of their remarks are cogent, and I think it is safe to say that we are really disturbed about the direction that this country is going in and the direction that the leadership is taking us. It is time to restore some balance.

We have got a Congress that sees nothing wrong with inserting itself in the midst of a private family tragedy a few weeks ago. Now they want to take Social Security, the most successful program that supports Americans throughout their retirement years, 70 years of success, they want to take it off the tracks. They want to yank the safety net out from under our retirees and under our generation. Because if the President is ensuring that people 55 and over are going to be okay, what is he saying to the rest of us? "You may not be okay but I do not care." I mean that is a really foreboding message that he is sending to our generation.

And I tell the gentleman from Florida (Mr. MEEK) I do not think he has to worry about standing alone, because there were more than 3,000 people at that rally with us today, more than 100 Members of Congress, and it appears in the feedback we have gotten from across this country that we are standing together, not alone; that we have lots of people behind us and they are trying to send a very strong message to the leadership of this Congress and to the President that privatization needs to be dropped, that we need to stop talking about it, that we need to come to the table together and compromise, that we need to right the train.

And I am going to just take the privilege of my gender here for a couple of minutes, since I am the woman of the three of us, and just talk about the possibility of privatization's impact on women, because it is disproportionate. It really is. More than 40 years after the Equal Pay Act, women still only earn 76 cents on the dollar for what a man earns, 76 cents. One cannot save what they do not earn. This proposal will disproportionately impact women.

In fact, because of childbearing years and care for sick or elderly parents, on average, women are generally out of the work force for about 12 years. Older women are less likely than older men to receive pension income. Only about 28 percent of women compared to 43



percent of men have a pension. So when they do receive pensions, the benefit to women is only about half what a man will receive.

So what that boils down to is that when a woman received her Social Security retirement benefits in 2003, the average monthly benefit for a woman was only \$798, which is about \$241 less than the average man's monthly retirement.

What will happen to women, because we have got 20 percent of single women who are widowed, who are Social Security beneficiaries who are collecting Social Security today, about 20 percent of those women, the only source of their retirement income is Social Security?

We are just yanking out the security and the safety that we have guaranteed where we are going from a guaranteed benefit to a guaranteed gamble. And that is what the gentlewoman from California (Ms. PELOSI) has been saying and leading us at the rally today and all the way leading up to today. We cannot shift the whole nature of Social Security from a guaranteed benefit to a guaranteed gamble. We have to keep the security in Social Security. That is the bottom line.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, no doubt about it. The gentlewoman from California (Ms. PELOSI), in fact, today was at Columbia University, New York City, 300 young people at 8:30 in the morning. College students, when that alarm goes off at 7 o'clock, 7:30 when they are in college, they hit that snooze button and they hope they make their 10 o'clock class. But there is so much concern here for this, and we know it is resonating.

And I think this group especially, since the gentlewoman from Florida joined us specifically, we have had more of an impact here, but I think we have seen the polls and the decline in support by young people for this kind of risky scheme, this risky proposal. And I think we will continue to see it because they recognize the fact that long term this is bad for them.

And one thing I would mention to the people that are watching at home, ask themselves is this legislative body, is this President addressing issues that face them day to day, affect their day-to-day life? Are we dealing with issues that will help them? And I think the answer is no. We are not dealing with oil, gas prices. We are not doing anything to try to find alternative energy sources. We are not doing anything to increase funding for Pell grants or No Child Left Behind. We are actually cutting benefits for veterans. If a veteran is sitting at home right now, their copay is going to go from \$7 to \$15, and there are going to be user fees assessed to them. All these things are happening. So if people are sitting at home and they are not involved or engaged in

the political process at all, they have to ask themselves, "What are they doing in Washington, D.C. that is going to help my life?" And really nothing. We are talking about a manufactured crisis that is going to happen in 2042.

I want to read one quick e-mail. I know we have gotten hundreds of these, but I want to read one. This is from last week. "My name is Susan Parker." Susan lives in Severna Park, Maryland. She is 33, becoming ever more involved in politics. A few weeks ago she watched the dynamic trio up here on C-SPAN discussing why the Bush administration's plan was not good for the citizens of the country.

"I was glued to the TV. I started taking notes, and from those notes I e-mailed letters to my Representative, Senators, and several letters to the editor. Thank you, thank you, thank you for the inspiration and for speaking out so consistently."

□ 2145

So these young people are starting to get involved, engaged, writing.

Before I part ways, I am going to have this hanging in my office. This is "Rock the Boat," the little coffee stand on it. "I Love Social Security." You can go to rocktheboat.com and get some information, or e-mail us at 30-something Democrats at mail.house.gov, or go to the Web site, democraticleader.house.gov/30something. So this is it right here.

Mr. MEEK of Florida. Mr. Speaker, I am sure glad the gentleman from Ohio (Mr. RYAN) shared his closing there, and also showed us his sign.

This is something I picked up today: "Stop Privatization. Americans for Social Security." They have a Web site, dot com. It is actually good water.

Also, this sign here: "Keep Your Hands Off of My Social Security." I think it is important. We know whose hands they are talking about, those who want to privatize, not our hands.

I also want to say thank you, because it is important. The reason why the polling numbers are what they are and Americans feel the way they are now, we want to thank the American Baptist Churches, USA, AFL-CIO, ACORN, Campaign For America's Future, Center For Budget Policy and Priorities, the Center For Economic Policy and Research, Children's Defense Fund, the Coalition of Human Needs, the Congressional Black Caucus Foundation, the Economic Policy Institute, the Labor Council of Latin American Advancement, the Consortium of Citizens With Disabilities, the League of Rural Voters, the League of United Latin American Citizens, Links, Inc., the NAACP, the National Committee To Preserve Social Security and Medicare, the National Congress of American Indians, the National Council of Churches, and I can go on and on and on.

They are the individuals out there, individual Americans, that have taken upon themselves to carry the fight on.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank both of these gentle-

men. I am losing the prop board here, but I wanted to close by quoting the President. He said, "Leadership means not passing problems on to future generations and future Presidents."

This plan passes trillions of dollars of debt on to our children and our grandchildren, and it is time that we all exercise some leadership, come together and think about the direction that this country is going in, bring it back to the center, restore some balance, come to the table and compromise, and take privatizing Social Security off the table and not yank the safety net from under our constituents.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will yield further, that is what this is about. When the country goes in the wrong direction, the population, the population can shift it and move it in the right direction. That is what is happening here.

Mr. MEEK of Florida. Well, Mr. Speaker, it is wonderful to be with the gentleman from Ohio (Mr. RYAN) and the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) again. It is wonderful being with you all once again. We would like to thank the Democratic leadership, mainly the Democratic leader, the gentlewoman from California (Ms. PELOSI), for allowing us to be here.

#### GENERAL LEAVE

Mr. CARTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore (Mr. KUHL of New York). Is there objection to the request of the gentleman from Texas?

There was no objection.

#### INSTITUTING TORT REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. CARTER. Mr. Speaker, I am honored to rise in this Chamber and discuss here tonight what has been a part of my life for my entire adult years, and that is the legal system of the United States, the attitudes of the American people about the legal system of the United States and where we are going in justice for America.

Mr. Speaker, I have had the privilege and the honor to serve as a member of the judiciary for over 20 years of my life. I had the honor to appear before good judges and good juries for an additional about 12 years of my life. I am and have been a part of the legal system of the United States of America. I am a lawyer, I am proud to be a lawyer, and I feel I come from an honorable profession.

But it is also the duty of those of us who practice in a profession, whatever

that profession may be, when you see a problem that changes the direction of fairness and justice in America, you need to step up and say it is there. You should not let it hide under a box because you might make a little more honey. You need to step up and say, folks, in a certain area, we are starting to see the system be broke, and, if it is broke, we got to fix it.

Now, we are going to hear the term "tort reform" thrown around. I have a son that coaches back in Round Rock, and he said, You know, the first time I heard tort reform, I thought they were talking about bacon, because the average people need to know what we are talking about when we talk about tort reform.

We are talking about a part of the law which basically deals with personal injuries to people. It is a system of justice we have developed in this country to try to find out a way to try to compensate people who are injured by the negligence of others. It was the purpose to solve a problem.

Mr. Speaker, a courthouse, the courtroom, a battery of lawyers, is nothing more than a massive problem-solving area for America, and tort reform solves the problem of someone being injured through the actions of another or their negligence. To look to reform the system, we need to say, what is broken?

Many people in this Congress on both sides of the aisle, and many of my colleagues that I work with daily, would start by blaming the lawyers. I am not going to start by blaming the lawyers, although they certainly have a great amount of blame.

I start with blaming the American people, because we have become soft and decided, many of us think we should have a free ride. The great, huge, gigantic verdicts that are being supported by some juries in this country are another way of winning the lottery in the eyes of many of the American people, and they are just as responsible for administering justice when they sit on a jury as a judge is or a lawyer who sits in that courtroom.

So as we look at our system, we have to say, why do we see a \$100 million verdict in a medical malpractice case when it is way beyond the imagination of anyone that that is what it takes to make that defendant whole from whatever injury that plaintiff has, that is what it takes from the defendant to make the plaintiff whole in that case? It is way beyond it.

Why did they award that \$100 million verdict? It is my personal opinion they awarded that verdict because we have become a country that would like to get something for nothing, and they are willing to give a fellow citizen something for nothing.

As a juror takes his oath of office to serve as a trier of fact in a case, he should realize that his job there is to do justice. If the judge refuses to reform a verdict, it is his job to do justice.

So as we start seeing these things in our system, we start saying to ourselves, those of us in the legislative branch of government start saying, well, wait a minute. We see these problems. Are there ways we can look to make it better so really justice is done, so really the purpose for the courtroom is well displayed by the verdict of the jury and the rulings of the court? And that is why this has now become a point in time where this society sues more people than the entire rest of the world put together by about 15 times. We are out of control in our lawsuits. The average jury award is now about \$3.5 million, up more than 70 percent since 1995.

So let us look and see who has come up with an idea that might help us address tort reform, help us work on this.

The first area we have already once passed through this House is medical malpractice. I am happy to see that my colleague, the gentleman from Texas (Mr. BURGESS), one of the practicing doctors who is now a Member of this august body, has joined me in the House. I am honored to have him here; and if he has the time, I would love for him to join me and talk a little bit about medical malpractice.

One of the things you have got to think about is that young doctor that just graduated from school, and I will use Texas because I happen to know Texas, maybe UT or Baylor or Texas Tech or A&M medical school, SMU, someplace they are putting out good doctors. This young man wants to go back to a small town and practice medicine, and he wants to do it because he wants to make a decent living and help people stay healthy. So he may want to go into the family practice of medicine.

He may want to deliver babies as part of that family practice of medicine because he loves children; and it is one of the things he loves, bringing life into this world.

Today we have to tell that young doctor that, first off, you paid for all your medical school, probably with money he had to borrow from student loans, you are going to have to pay that back, but you are also going to have to get ready to kick in about \$70,000 to \$100,000. I would say your first \$70,000 to \$100,000 you make in the practice of medicine you are going to have to go to pay for liability insurance to make sure that you are protected.

That may be a low number. I am sure that the gentleman from Texas (Mr. BURGESS) could tell us numbers that far exceed that in some specialties where people have to go out and get that insurance. That means when you open the door, you could be \$100,000 in the hole for the first year of practice, and the first time something does not go the way somebody would like it, there you are facing a lawsuit.

Now, seven out of 10 medical malpractice lawsuits filed in the United States have been proven to be frivo-

lous; and many of these lawsuits, unfortunately, because of the nature and the fear of the large verdicts in our system, get settled even though they are frivolous, which causes what? The cost of the insurance to go up, not only for the individual, but for the body and for the specialty.

There are places in this country right now where you are not going to find a neurosurgeon on staff because the cost of being a neurosurgeon is just prohibitive. People in the Valley of the Rio Grande of Texas, one of the poorest regions in the entire Nation, it is difficult to find a doctor who will deliver a baby. There are stories upon stories of women arriving at their doctor's office to learn that the cost of their medical malpractice insurance has put them out of the baby-delivering business. That woman is about to have a baby. She is faced with driving 80 or 90 miles to San Antonio just to find a doctor to make sure that baby is going to be delivered by a doctor, if she can get one.

Mr. Speaker, this is a crisis, and it is a crisis that calls upon us who are in the legislative body to start coming up with solutions. I think that the vision that we have for following the California plan, which has shown that setting certain limits on awards, will assist us, and driving down the cost is important. So that is one area.

We talked a lot about this over the last year, and I wanted to touch on it, because that is where we start and that is where we are starting. There is a book, I believe it is Mr. Grisham wrote this book, called "The King of Torts." It is a novel, but it certainly is based upon some historical facts in this country about these class-action lawsuits.

This session of Congress we did something about class-action lawsuits, this House did and the Senate did; and I am very hopeful we have got class-action lawsuits put where they ought to be. Because what was happening is these lawyers were putting together these large classes of people.

Mr. Speaker, I told you, I highly respect the legal profession. I am not here to blast lawyers. But just because I respect the profession does not mean there are not people that in my opinion that I do not hold in high esteem. Some of these are those who would gather a class from thousands to hundreds of thousands of people in a class, and their victory is they get a certificate for a 20 percent discount and the lawyer gets \$100 million.

Mr. Speaker, that is not the right system; and I think, quite frankly, the lawyers that do that ought to be ashamed of themselves, because the system is designed to make whole those who are injured. Yet they forumshop the Nation looking for these areas where clearly there were some courts who favored these types of actions.

Now, we have put together a system which we feel is very good to put it in the right place, because these things cross State lines. They span the entire

Nation and territories of the United States.

□ 2200

Yet, they could go forum shopping in one individual jurisdiction to get better results.

So, in order to stop this forum shopping, we have put together the Class Action Fairness Act which was signed into public law February 18 of this year. It will help unclog overclogged courts, it ends the harassment of local business by forum shopping, and it protects the consumers with the Consumers Action Bill of Rights that requires judges to carefully review the settlements and limits of the attorneys fees when the value of the settlement received by a class member is minor in comparison with the net loss of the settlement claim and the resulting attorneys fees therefrom. It bans settlements that award some class members a larger recovery than others. It allows the Federal courts to maximize the benefit of class action settlements by requiring that unclaimed settlement funds be donated to charitable organizations.

Now, this is a good start, and we are going to have, hopefully, before this session of Congress is over, before the 109th Congress goes to bed, we are going to have more good starts.

Mr. Speaker, I would say that my goal, and I think the goal of all of my colleagues on both sides of the aisle, is to make sure that our legal system, the system that we are so proud of, the fact that we stand in this Chamber day in and day out and talk about the rule of law, because we are proud that we are a nation ruled by the rule of law, that what we are trying to do is make the rule of law work better. The rule of law is not a Las Vegas slot machine. The rule of law is getting justice to every individual that breathes air in this great Nation of the United States of America, and justice means fairness to all.

Mr. Speaker, we are seeing in our court system today a trend that, quite frankly, frightens me. It frightens me because people do not go to court to address grievances; they go to court to punish somebody. They go to court to hurt somebody or to make somebody bow down to their will. Mr. Speaker, that is the climate we have, and we have to start working on it.

I would like at this time to yield to the gentleman from north Texas (Mr. BURGESS), my colleague who is very knowledgeable on the subject of what this is doing to our doctors and our medical profession and our cost of medicine. I am honored that the gentleman is here to join me in this conversation.

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Texas for yielding. I heard the gentleman speaking and I felt compelled to come down here and talk on this subject a little bit. I am so grateful that the gentleman has talked about one of the successes that we have had in this Congress, which is the Class

Action Fairness bill, a bill that was signed into law by the President last month.

There is no question we can talk about the injuries and the grievance situation, we can talk about it all day and all night, but that does not do the American people any good. The American people need to see results, and I believe with that bill, we have done a great deal towards reestablishing our country, the greatest work force in the world, as being competitive with other people in other countries. We heard a lot about outsourcing during the last election, how we are going to stop outsourcing. Well, one of the things we can do to stop it is to stop making a climate that is prohibitive for business in this country, and I believe our Class Action Fairness bill was a big step in the right direction to do that.

We have also had some other successes as far as the fairness of the medical liability system in this country. My colleague already alluded to the Medical Compensation Reform Act of 1975 from California, but our own State, Texas, passed a very sweeping medical liability reform law in the last legislative session, 2 years ago. It required a constitutional amendment in the State of Texas to become law, which passed September 12 of 2003, and really what I would like to talk about is the success that we have seen in Texas since the passage of that constitutional amendment.

Now, 10 years ago, when I was just a simple country doctor, if someone had asked me, gee, doctor, what do you think we should do about the medical liability problem, the medical liability crisis; and, mind you, the medical liability crisis, it goes back a number of years. When I was in medical school in 1975, it was a crisis. And we thought we had solved the problem then, but, in reality we had only postponed it for a little while, and it reemerged in the 1980s. We thought we solved it for a little while then, but we did not, and it reemerged in the late 1990s to be the true crisis situation that occurred in the State of Texas in 2002.

But if someone had asked me back in the years right out of medical school what I would prefer to see as something that would restore fairness to the medical justice system, I would have said a system of an alternative dispute resolution-type of program where you would have a medical panel that someone would have to go through before they could go to court. I would have a very idealized no-fault system. The reality is, we cannot get there.

So do I love caps? No, not necessarily, but they work. And since they work and since the crisis is present in this country; and if you do not believe me, if you live in Maryland, ask your doctor the next time you go in to see him or her. If you live in Pennsylvania, ask your doctor the next time you go in to see him or her. If you live in New Jersey, good luck, because you probably will not be able to go in and see

your doctor, because they have come to Texas, because we have done such a good job of fixing the liability problem in our State.

The central piece of that was, of course, a cap of noneconomic damages, a \$250,000 cap of noneconomic damages against the physician, and a \$250,000 cap against the hospital, and then another \$250,000 cap against a second hospital or a nursing home, if there is one involved, for a total cap of \$750,000.

Now, I did not know if that would work. That seemed almost a little too generous. The California law that was passed in 1975 worked, but they set a single cap of \$250,000.

What has happened in Texas since 2003 when that constitutional amendment was passed? Well, one of the unintended consequences was hospitals have really enjoyed a significant benefit from the passage of that law. Texas hospitals are reporting a 17 percent decrease in professional liability premiums for 2004–2005. This is from a Texas Hospital Association survey with responses from 172 acute care hospitals. In 2003, before the law passed, the premiums had risen more than 50 percent.

This is one of the big things. This is one of the big wins of this law. New carriers are seeking entry into the Texas market. The Texas Department of Insurance report from August 5, 2004 and the largest carrier, Texas Medical Liability Trust, has reduced physician rates 12 percent. In the years prior to medical liability reform, 13 carriers left the State and 6,000 physicians had to scramble for coverage. Now, 6,000 physicians, that is a big number. You run across one doctor who has had that happen to them, and that is a significant blow to their livelihood and their career plans.

When I was campaigning in 2002, I met a young woman who was a radiologist. She was probably in her early forties, and she came up to me at an event and said, boy, I hope you get something done with medical liability reform next year because my carrier left the State and I cannot buy insurance. And I thought, well, you must have had some trouble along the way. And she offered, before I even had the chance to speculate about it, I have never been sued, but my carrier left the State. She cannot get insurance. She is not going to practice as a radiologist without insurance and put all of her personal assets at risk.

So, as a consequence, here this young woman, 42 years of age, at the peak of her power as a physician, if you will, trained at the University of Texas at San Antonio, so trained with a State-subsidized education, the people of Texas had paid for her training; the people of Texas are now denied her abilities, her capabilities as a professional because she cannot get insurance and, as a consequence, cannot practice radiology, because the profession of radiology is just too fraught with peril to practice without insurance.

Well, another insurance writer, Texas Health Care Indemnity, reduced their rates by 20 percent in Texas. Again, these are hospital insurance rates that have been reduced because the doctors in Texas did something to try to get ahold of medical liability reform.

The filings themselves, the actual lawsuits filed have decreased. Medical liability lawsuits in several counties considered high-risk for physicians have decreased since the new law took effect in 2003. For Harris County, 105 lawsuits were filed from September of 2003 to July of 2004, compared with 746 lawsuits filed in the 3 months prior to the passage of the constitutional amendment. In Bandera County, the county where San Antonio is, 81 lawsuits were filed between September 1, 2003 and April of 2004, compared with 304 lawsuits filed in the 3 months before the constitutional amendment was passed. Nueces County, 32 compared with 108. Cameron County, 17 compared with 28; Hidalgo County, 17 lawsuits in the year after reform, 96 lawsuits in the 3 months prior to reform.

Well, Mr. Speaker, there is no question that caps have been the good-news story in Texas, and that is why I embrace the legislation that we will do in this House this year that will have as its central feature a cap on non-economic damages.

Does this keep someone out of the courthouse? Absolutely not. If someone is harmed by the system, they are able to recover all of the economic damages to which they are entitled. And the reality is in Texas, we are going to limit damages for pain and suffering to \$750,000, which still is a significant amount of money when you consider it in the total amount of filed litigation.

So with that, Mr. Speaker, and with the gentleman from Texas's permission, I will yield back, but I will remain around if the gentleman has any other questions that he would like to ask of me.

Mr. CARTER. Mr. Speaker, I would like to have a little conversation with the gentleman. The gentleman is right. It is very important to make the point that those people that should be at the courthouse addressing genuine harm are still getting to the courthouse and having that harm addressed. It is not cutting off the need of people to recover in the courthouse; it is cutting off these frivolous attacks to try to reach the pot of gold at the end of the rainbow by limiting the pot of gold, and we clearly can see what happened: Get them all in before the deadline so that we can win the lottery. After that, we are just going to get paid for our work.

Mr. BURGESS. Apparently so.

Mr. CARTER. It is a whole lot more fun to dream about winning the lottery. I mean, obviously, the whole country dreams almost every third night in this country about winning the lottery someplace; not very many of them that win it, but they are out there dreaming it. But the real crime

of winning the lottery when we are talking about lawsuits is the fear of that big judgment that causes people to settle lawsuits that should not be settled to prevent the danger of that unlimited liability that is out there before caps were placed in the law. The gentleman knows there is nothing that irritates doctors more, and I have talked to doctors about this; they say, they made me settle the lawsuit but, by golly, I did not do anything wrong.

Mr. BURGESS. The gentleman is absolutely correct. If the gentleman will yield, the cost of continuing the lawsuit in both dollar terms and emotional terms is sometimes just simply too high, and the better part of valor is to settle. Fortunately, I lived in a county where juries were a little more favorable to physicians, but we all know of other counties within the State of Texas where that was not the case. There is no question that cases were settled simply because it was easier than continuing the pain and agony of continuing the lawsuit.

Mr. CARTER. And I too lived in such a county and presided over such a court. Our Williamson County jurors, they, when you start talking about \$1 million, there is not that much money in the world as far as they are concerned, so they were very tight with their money and, therefore, you saw very few people; if you could file that lawsuit someplace else, they were not filing it in Williamson County, because they were seeking that pot of gold.

Mr. BURGESS. But again, the biggest problem is access. If we drive our good physicians out of practice, if we prevent our best and brightest from entering the practice of medicine, and there is evidence that that is happening, I fail to see how we are furthering the cause of patient safety by keeping the best and brightest out of medicine. I fail to see how we are furthering the cause of patient safety by preventing smaller towns from having access to perhaps an anesthesiologist or perhaps a cardiologist simply because they cannot afford the liability premiums to have them there.

□ 2215

Now, the gentleman knows I have been around a while. I have had four children. When my first couple of children were born, a lot of the procedures that you OB-GYNs do on a regular basis. And I am glad to see we are joined by another one of our doctors here in Congress, the gentleman from Georgia (Mr. GINGREY). So we will just have this conversation be three-way.

When my first two kids were born, I do not even know the terminology, but when they scanned the baby on your tummy, that was brand new. The piercing to check the fluid was brand new. They did not do that as a regular course. They did not run those tests as a regular course with my first two children. With my last two children they did, and it was a blessing for our family because we had a crisis pregnancy at one time.

But my point now is that a doctor, because of the potential of the liability, is afraid not to do those procedures. Is there some truth to that? Does the gentleman agree that there is some truth to that?

Mr. GINGREY. If the gentleman will yield, I do. And the gentleman from Texas (Mr. CARTER), the good judge, is kind to yield to me. I actually came to the well for another purpose, but since you asked me my opinion on this, I will be glad to opine.

By the way, that piercing of the abdomen to get the fluid, that is called amniocentesis.

Mr. CARTER. That is it. That is why I went to law school and not medical school.

Mr. GINGREY. Now, do not ask me to spell that for you.

But, Mr. Speaker, absolutely. What the gentleman from Texas, both the gentlemen from Texas, I should say, are absolutely right. The gentleman from Texas (Mr. BURGESS) earlier was talking about the number of physicians, that before this good legislation was passed by the great State of Texas, it was 600 or so. And it is really, as I have said this many times, it is not just that the physician loses his or her livelihood that they have worked most of their adult life to establish. But it is a jobs situation, because every time a medical office closes because of the burdensome expense of malpractice insurance, you are talking about putting maybe 15, 25, possibly as many as 50 employees of that medical practice, Mr. Speaker. That is how many were employed in my practice as an OB-GYN in Georgia.

And I really commend Texas in regard to their legislation. I think it was a model, Mr. Speaker, for my State of Georgia in the general assembly, and the State of Georgia this year did pass reform legislation very similar to the Texas bill. And I think that they have now got a couple of years' experience, so hopefully that same thing will occur in the State of Georgia.

So I really appreciate the gentleman yielding and giving me an opportunity to weigh in on this.

Mr. CARTER. Mr. Speaker, reclaiming my time. And I once again thank my colleague from Texas (Mr. BURGESS) for being here with me tonight. I rose when I first started talking to tell you that there is, in my opinion, an attitude crisis for the justice system in America. We have talked about medical malpractice, and we have gone forward on the crusade. And I think we are getting some results. And the gentleman from Texas (Mr. BURGESS) has very clearly described how we are seeing those results in the State of Texas today. Hopefully, with the work this Congress will do, we will be able to find that same success in the area of dealing with medical issues in the courthouse, to put more fairness back in the system; and that our class action reform, I think, is putting fairness back in the system.

But it is a bigger picture than that, Mr. Speaker. There are a lot of issues we really need to talk about as we talk about lawsuit reform in America. One of the real tragedies that you see in the courthouse today is people using our courts, not to redress grievances, but as a battering ram of costs to destroy competition with those that they are in business in competition against, or using it to try to change, make somebody do something they do not want to do by costing them enough medical costs, I mean, lawyer costs they cannot afford to go to court.

So you just continue to file lawsuit after lawsuit after lawsuit, many of which could be frivolous; but you must defend yourself. And you must be insured to defend yourself. It is getting epidemic. And if you do not think it is epidemic, let us think about the world we are in today, the world of politics in America. Do you think our Founding Fathers ever anticipated that at the end of an election cycle parties would have 50 lawyers on retainer ready to go to court on both sides with both parties?

Do you think that that is the system that we thought that we wanted to have in this country, America? And yet we seem to be there today. I am not taking the sides of whether you like or do not like how elections come out. But when did it become everybody goes to court? When did this have to happen?

I mean, our Founding Fathers trusted the American people to elect their representatives. Did they design a system where judges rule the country? I do not think so. If they had had that system, they would have kept the King, and old George would still be around here. No, the purpose of the American justice system is justice. It is fairness, it is a place to seek recourse when there is no other place for recourse and to get a fair judgment.

Now it has become a weapon of politics. It has become a weapon of business; it has become a weapon to make school boards change policies. It has become a weapon to make city councils shut down parks or take down symbols. We have gotten to a point where we are letting the courthouse drive everything.

Mr. Speaker, we love our rights in this country. We love to be a Nation that stands up for its rights. My problem is, with rights come responsibilities. And there are times in this life when you are responsible and you have to stand up and recognize I am responsible here. I do not need to sue somebody. If I do not like the way my neighbor cuts his yard, why in the world do I have to drag him into court and make him spend \$100,000 on lawyers to make him cross-cut his yard instead of parallel cut it? And yet there are people who do that.

I tried a lawsuit between whose cat and whose dog was doing their business in whose yard. And those people spent \$60,000 a piece on lawyers. Mr. Speaker,

that is unreasonable. That is ridiculous.

But we have reached a point in America today where we have become so lawsuit crazy and we think we can get something for nothing, they are willing to force somebody to do something that they do not want to do by forcing them to spend their money on lawyers.

It is not the lawyers' fault. They are just getting paid for their hourly wage. It is our attitude in this country. And as we start to show people how we can redirect and make things better, the gentleman from Georgia hit right on it. Not only as these judgments come down in the courtroom does it affect the individuals in the courtroom. The periphery around those individuals, it affects jobs, it affects businesses, it affects the availability of services, the availability of goods, our ability to compete worldwide, to be part of this great ever-growing world community. It affects everything that affects every American citizen by the fact that we are driving up legal costs and using our courts as a weapon.

Mr. Speaker, we have got to do something to change this attitude. I am very blessed right now in Congress to have a multiple of my colleagues from Texas now Members of Congress, the gentleman from Texas (Mr. GOHMERT), who is here with us today. The gentleman from Texas (Mr. POE) is also a new Member of Congress, and I am very honored to have both of these fine judges with me.

We have talked. We talk about what happens in our courtroom, what happens in our courthouse. And we see that there is an attitude in America that has got to be changed. And we do this by, I think, by doing what we are doing right now. Let us start taking the real problem areas, let us start analyzing them. Let us start coming up with a commonsense approach of how we are going to make sure that we are not in the business of making people rich. We are in the business of making people whole. We are in the business of making people right for the injury that occurred. And common sense will hopefully cause us to start to see that what our American court system is about is justice. And if it is not about justice, then it is going about things all wrong.

Mr. Speaker, every day now in the newspaper we see somebody using the courts or somebody using accusations without convictions to harm and punish people in this country, and in this body. Mr. Speaker, that is wrong. That is not what our Founding Fathers intended.

Our Founding Fathers told us that people are innocent until proven guilty. They told us we have a series of courts that are to provide justice and a resolution of disputes, not a battering ram to pound your opponent into submission. And this is the kind of thing that, as we look at the future of the American justice system, we have to do this.

Now, when I get the chance to come up here and talk about lawsuit reform,

there is one more thing we ought to talk about. And I may change the subject just so I can get my good friend, the gentleman from Texas (Mr. GOHMERT), to step up to the podium. I am going to yield to him right now, and then I am going to come back and talk to you a little bit about what is going on over in the Senate and checks and balances on the judiciary. But first, I thank the gentleman from Texas for coming up here this late hour and joining me. I am proud to have him here, as I said before.

Mr. GOHMERT. Mr. Speaker, I thank the gentleman. I am very honored to be here in the same body with him. He is a well-respected and well-thought-of jurist sitting in Georgetown, Texas, from Round Rock, Texas, home of the yellow doughnut. But it is an honor to serve with you and with somebody that understands the tripartite system of government and the checks and balances. I know when I was at Texas A&M in undergrad, and it looked like I would not be going to Vietnam, it was ending before I graduated, I was looking at going to law school and my dad was concerned about that. And I used to get clippings every weekend, talked about there are too many lawyers in the country, and what is wrong with America are the lawyers, and lawyers are crooks and that kind of thing. And I really had to do a lot of soul searching about whether law school was something I wanted to do.

And what I came to the conclusion of was that, really, the law is a tool. It is like a hammer. You can use it constructively to build great things, or you can use it to tear down the greatest things. And that was all in whose hand that tool resided. And I ended up endeavoring to do just that, to use the tool and try to use it constructively.

But then, as the gentleman has pointed out, we have seen around the country so many abuses. I was just in Spokane, Washington, and talking to people in eastern Washington Friday and Saturday and was hearing how desperate they were for some certain physicians and specialists in the eastern part of Washington, that many of them were having to travel over to Idaho, some parts of Texas that has become a real problem.

And it is a shame it arises out of some of the abuses that have occurred. You and I know that there are excellent defense lawyers. There are excellent plaintiffs' attorneys and the courts are a very necessary part of our tripartite system where we can come, no matter what is going on outside the courthouse, we can come sit down and each side gets a turn, each side puts on their case, puts on evidence, each side has a chance for mutual arguments and then have a determination in a fair civil manner from objective people, and that is a great system. It is not a perfect system, because unfortunately it deals with people. But it is the best system that has ever been generated for resolving disputes.

But because of some of the abuses, I have been looking for solutions. We know, I have seen for example, many doctors brought in to a lawsuit and maybe there was one person at fault, but then all these other people got brought in, and then person after person who is a defendant gets dropped from the lawsuit.

□ 2230

I had one doctor standing in my courtroom when I announced that the plaintiffs had dismissed her and she said, That is it? I am dismissed? What about my pain and suffering? What about a year's loss I have had? What about my attorneys fees? What about my liability insurance going through the roof? All of these things have happened and there is no recourse.

So one of the things that I thought that would help level the playing field, and I am open to any ideas, and we hear talk about caps, this, that and the other, but it seems like a system where there was a provision for a loser to pay, if there is no finding of fault or no agreement among the parties, that that could go a long way toward leveling the playing field.

Now, I have heard people from the other side who said, but you do not understand the games that get played on the defense side. I have seen the games that get played on the defense side. I had one lawsuit that involved thousands of plaintiffs, and originally there were hundreds of defendants in it. After I had come into the suit, within a matter of months I dismissed a whole slew of defendants. A couple of defense attorneys told me, wow, Judge, this has been going on 11 years. You just came in here and all of the sudden dismissed a bunch of defendants. We are proud of you. It is good for our clients but we do not know what we will do. One of them said, I put my kids through college and law school on this case as a defense attorney. I kind of hate to see it go away for my clients because I was making money.

There are abuses on both sides. One of the thoughts I had was to answer the cry if you had a strict loser-pay situation that it would make people reluctant to bring all the parties in to a suit initially. And if they did not do that, then you get past the statute of limitations period and then all the defendants turn and point to somebody who is outside the lawsuit, saying he is responsible, and it is too late to go get him.

We know also there have been abuses where parties are brought in just so discovery can be done, depositions be taken free of charge and then drop them. That is a form of abuse as well. My thought was perhaps have a loser-pay type situation, and if it gets beyond the limitations and parties in the lawsuit, point to somebody outside the lawsuit, then extend the limitations for 30 days to bring in a party that they are now all pointing to so that that would take care of that situation.

I am looking for solutions because there are a lot of people that are getting hurt, a lot of people that have been abused; but at the same time we need to protect the system so that real legitimate claims can have a resolution.

If the gentleman would allow me to mention one other aspect of this that he has been talking on so eloquently, of course I love the way a fellow Texan talks such as the gentleman, but I have noticed an effect in the schools.

My mother passed away in 1991 but she was a teacher, eighth grade English teacher most of her adult life, and my sister had been a school teacher for nearly 30 years. My wife had been a school teacher until we got to needing her so desperately full time in our campaign in Congress. But what I was seeing more and more of was this fear of being abused by a lawsuit by educators, by teachers and sometimes teachers have enough. They have a problem student. They take him to an administrator and an administrator says, I realize this person is completely disrupting your class but their parents keep threatening a lawsuit and we cannot afford that. So if you just get by and do the best we can and we will get past the lawsuit and probably somebody else's. And it seems like it has been a complete disruption to orderly discipline in our schools.

One of the thoughts, here again, I am trying to think outside of the box and think creatively, but as judges we had something called judicial immunity. You may not like the way a judge rules, but if he is not committing a crime and he is acting within the purview of his job, trying to do what is right, trying to make the right decision, you are not going to file a lawsuit against him. And if you do, it will be thrown out and probably sanctioned because the judge has judicial immunity.

I thought it might be fair to help education by extending that doctrine to the area of education. You may be making a decision that is not very wise as an administrator and an educational facility, you may be a teacher that does not make wise decisions, and that is the basis for going to the school board and getting you fired. That is a reason to go to the school board and have a principal or someone else fired, but it is not a basis to run and file a lawsuit and go to court. So that educators can feel more comfortable in doing a job.

Yes, they are accountable through the legislative branch, but let us do not make it a habit to run down and file lawsuits. I think we could set the schools back on track and a long way toward proper discipline if we extended that type of educational immunity to teachers and administrators. As long as you are not committing a crime, you are acting within the purview of your job, let us give you a break.

The gentleman has discussed so eloquently this mindset, this America, ev-

erything is someone else's fault. And once we can help people get beyond that notion and force them to try to resolve things among themselves, mediation, arbitration, these type of things have been very helpful in the alternative dispute resolution, trying to avoid the lengthy attorney fees and court costs.

We were in Spokane hearing testimony about environmental laws. We had boxes stacked up over my head. As I understood it, it was over a little more than 2-mile stretch of road, and the appeals and things that have just gone on and on have been crazy, the trees that have been cut down just to allow that kind of abuse of the system. By the same token, I was shown a graph that showed that since 1970, the bar graph year by year, that lawsuits have continued to escalate, and with each year as the lawsuits escalated the board-feet of lumber we had produced had gone the other way, directly proportional the other way.

So we see the destructive tendency. That is a renewable resource. We ought to be able to do better than that. But the courts have been used, as the gentleman said, to batter others. As Shakespeare said, The problem may not be in our stars but in ourselves.

Some people blame the lawyers but the fact is no lawyer can file a lawsuit without a client. No lawyer can defend a lawsuit without a client. The problem may be bigger than just lawyers. It may be not in our stars, not in our lawyers, but all part of the same problem.

I appreciate the gentleman addressing this so well tonight.

Mr. CARTER. Madam Speaker, I thank the gentleman. I want to say a statement the gentleman made, I want to emphasize how important it is to me and I think it is important to every Member of this House. That is, men of good will always look for solutions.

We do not always have the right ideas, but if you do not lay proposed solutions on the table for a free debate among men of good will and women of good will in this august Chamber, we will not come up with a solution.

I believe the American people are ready, willing, and able to listen to a debate from the United States Congress about the things that we are talking about here today; and that is what is wrong, how do we change our attitude towards the law, towards our rights and towards our responsibilities? What little things can we do to adjust, to help guide us down the path that I think our forefathers clearly intended for us when we designed the system, which, for all its fault, as the gentleman pointed out, is still the best system ever devised by man?

I am not ashamed of it, and I am not ashamed of lawyers, and I am not ashamed of our system. But I think we must be men of good will and women of good will who seek solutions.

Finally, I am going to just briefly pause. This will be the subject of a whole other talk, but we have got the

issue that the press has decided to address as "the nuclear option" which is going on over in the Senate by dealing with the Senate rules and how we are going to get an up-or-down vote on judges.

We love to address, and rightfully so, the Constitution of the United States as we discuss things on this floor. And we love to talk about the checks and balances in our government. And in a judiciary appointed for life as we designed in our system, you have to look into the Constitution and see where the checks and balances are. And I think clearly our framers designed the number one check and balance on the judiciary to be the fact that there will be a new process at least every 8 years now, but certainly 4 to 8 years, who will appoint different types of people to serve in our judiciary which will give a good cross-section of a blend of attitudes, views of the law to our judicial system, to give a system that spreads fairness for all citizens.

To use procedural rules to prevent that appointment power which calls for the advice and consent of Senate, to prevent that using procedural rules, I think it is not a nuclear option, as we are discussing, it is a constitutional option.

If we are not going to allow that check and balance to operate, then where will the checks and balances be? So this will be a subject of another discussion another time. But at this time, I just want to remind the American people as the rhetoric in the papers and on the TV and the radio, remember it is the best justice system in the world. But it is the best because we had some people who sweated blood, sweat, and tears in Philadelphia to come up with a plan that set balance to our system. And the number one balance to a judicial system appointed for life is the opportunity for the executive branch, through the President, to nominate new blood to our judiciary through every Presidential term.

Some of that new blood will be just exactly what they think it will be with their views, and some of it will not. And we are always surprised to hear from our commentators: Well, it is true, but that judge was appointed by Reagan.

That's right, that is how the system works. You put the new blood out there, that blood develops into a justice system, that spreads it out for everybody. And some of them, some people go the way everybody expects them to be and some people do not.

When Eisenhower appointed Earl Warren, nobody anticipated the activist court that would come from the Warren court. And yet historically it is one of the most activist courts in America. So that system works. Why be afraid of it?

I would urge everyone to look at this issue and let the Senate think just for a second, get the politics out of this for a minute and say, What did our Founding Fathers see here? That we had a

system that works if we just let it work.

Let us have a vote, up or down, on every nomination that the President has proposed; and when their President gets in there, if he ever does, we should do the same thing for them. That is what our Founding Fathers proposed.

Madam Speaker, I have enjoyed being with you this evening and I am very honored that my colleagues were able to see me ranting and raving and come over here and help me out. Of course, you know one thing you can count on from Texans and Georgians is when there is a call to arms they always show up. So I am proud to see my colleagues from Texas come out and join me in this discussion, and I am very proud to have my colleague from Georgia join me. I thank them all for being here with me tonight.

Madam Speaker, I thank you for your patience in listening to me tonight and for joining us and coming up with those solutions that men and women of good will can submit to this body and hopefully make America better.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 22, EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT AMERICAN SMALL BUSINESSES ARE ENTITLED TO A SMALL BUSINESS BILL OF RIGHTS.

Mr. GINGREY (during the Special Order of Mr. CARTER), from the Committee on Rules, submitted a privileged report (Rept. No. 109-55) on the resolution (H. Res. 235) providing for consideration of the resolution (H. Res. 22) expressing the sense of the House of Representatives that American small businesses are entitled to a Small Business Bill of Rights, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 748, CHILD INTERSTATE ABORTION NOTIFICATION ACT

Mr. GINGREY (during the Special Order of Mr. CARTER), from the Committee on Rules, submitted a privileged report (Rept. No. 109-56) on the resolution (H. Res. 236) providing for consideration of the bill (H.R. 748) to amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HOOLEY (at the request of Ms. PELOSI) for today on account of a family issue.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

- Mr. PALLONE, for 5 minutes, today.
- Mr. BROWN of Ohio, for 5 minutes, today.
- Mr. DEFAZIO, for 5 minutes, today.
- Ms. WOOLSEY, for 5 minutes, today.
- Mr. GEORGE MILLER of California, for 5 minutes, today.
- Mr. KIND, for 5 minutes, today.
- Mrs. DAVIS of California, for 5 minutes, today.
- Ms. KAPTUR, for 5 minutes, today.
- Mr. MCDERMOTT, for 5 minutes, today.
- Mr. CUMMINGS, for 5 minutes, today.
- Mr. EMANUEL, for 5 minutes, today.
- Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

- Mr. HENSARLING, for 5 minutes, today and April 27.
  - Mr. JONES of North Carolina, for 5 minutes, today and April 27.
  - Mr. BURTON of Indiana, for 5 minutes, today and April 27 and 28.
  - Mr. OSBORNE, for 5 minutes, today.
  - Mr. PORTMAN, for 5 minutes, April 27 and 28.
  - Mr. GUTKNECHT, for 5 minutes, April 27, 28, and May 3.
  - Mr. ROHRBACHER, for 5 minutes, today.
  - Mr. NORWOOD, for 5 minutes, April 28.
  - Ms. ROS-LEHTINEN, for 5 minutes, May 3 and 4.
  - Mr. MCHENRY, for 5 minutes, April 27 and 28.
- (The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
- Mr. GINGREY, for 5 minutes, today.
  - Mr. MOLLOHAN, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 893. An act to make technical corrections in the Anabolic Steroid Control Act of 2004, to the Committee on Energy and Commerce; in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. CARTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 27, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1728. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Extension of Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans [DFARS Case 2004-D029] received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1729. A letter from the Publications Control Officer, Department of the Army, Department of Defense, transmitting the Department's final rule — Law Enforcement Reporting (RIN: 0702-AA42-U) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1730. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Bonds [DFARS Case 2003-D033] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1731. A letter from the Senior Paralegal (Regulations), Office of Thrift Supervision, Department of the Treasury, transmitting the Department's final rule — Proper Disposal of Consumer Information Under the Fair and Accurate Credit Transactions Act of 2003 [No. 2004-56] (RIN: 1550-AB87); Department of the Treasury, Office of the Comptroller of the Currency [Docket No. 04-13] (RIN: 1557-AC84); Federal Reserve System [Docket No. R-1199]; Federal Deposit Insurance Corporation (RIN: 3064-AC77) received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1732. A letter from the Regulatory Specialist, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Community Reinvestment Act Regulations [Docket No. 05-06] (RIN: 1557-AC86); Department of the Treasury, Office of Thrift Supervision [No. 2005-06] (RIN: 1550-AB91); Federal Reserve System [Regulation BB; Docket No. R-1205]; Federal Deposit Insurance Corporation (RIN: 3064-AC82) received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1733. A letter from the Regulations Coordinator, CDC, Department of Health and Human Services, transmitting the Department's final rule — Possession, Use, and Transfer of Select Agents and Toxins (RIN: 0920-AA09) received March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

REPORTS OF COMMITTEES ON  
PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 210. Resolution supporting the goals of World Intellectual Property Day, and recognizing the importance of intellectual property in the United States and worldwide (Rept. 109-53). Referred to the House Calendar.

Mr. NEY: Committee on House Administration. House Resolution 224. Resolution

providing for the expenses of certain committees of the House of Representatives in the One Hundred Ninth Congress; with an amendment (Rept. 109-54). Referred to the House Calendar.

Mrs. CAPITO: Committee on Rules. House Resolution 235. Resolution providing for consideration of the resolution (H. Res. 22) expressing the sense of the House of Representatives that American small businesses are entitled to a Small Business Bill of Rights (Rept. 109-55). Referred to the House Calendar.

Mr. GINGREY: Committee on Rules. House Resolution 236. Resolution providing for consideration of the bill (H.R. 748) to amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion, and for other purposes (Rept. 109-56). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RANGEL:

H.R. 1813. A bill to require the payment of interest on amounts owed by the United States pursuant to the reliquidation of certain entries under the Tariff Suspension and Trade Act of 2000 and the Miscellaneous Trade and Technical Corrections Act of 2004; to the Committee on Ways and Means.

By Mr. FLAKE (for himself, Mr. MCGOVERN, Mrs. EMERSON, Mr. DELAHUNT, Mr. OTTER, Mr. ABERCROMBIE, Mrs. BONO, Ms. BALDWIN, Mr. BOOZMAN, Mr. BERMAN, Mr. GRAVES, Mr. BERRY, Mr. HERGER, Mr. CLAY, Mr. JOHNSON of Illinois, Mr. DEFAZIO, Mr. LAHOOD, Mr. LEACH, Mr. DOYLE, Mr. MANZULLO, Mr. FARR, Mr. MORAN of Kansas, Mr. LYNCH, Mr. OSBORNE, Mr. MOORE of Kansas, Mr. PAUL, Mr. PETERSON of Minnesota, Mr. RAMSTAD, Mr. RANGEL, Mr. RYAN of Wisconsin, Mr. ROSS, Mr. SHAYS, Ms. SCHAKOWSKY, Mr. SHIMKUS, Mr. SNYDER, Mr. TIBERI, Ms. SOLIS, Mr. TANNER, Mr. THOMPSON of California, Mr. TOWNS, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, and Mr. BASS):

H.R. 1814. A bill to allow travel between the United States and Cuba; to the Committee on International Relations.

By Mr. HUNTER (for himself and Mr. SKELTON) (both by request):

H.R. 1815. A bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes; to the Committee on Armed Services.

By Mr. KING of Iowa (for himself, Mr. NORWOOD, Mr. PAUL, Mr. WELDON of Florida, Mr. FRANKS of Arizona, Mr. WICKER, Mr. MCHENRY, and Mr. SESSIONS):

H.R. 1816. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Education and the Workforce.

By Mr. COX:

H.R. 1817. A bill to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mr. OBERSTAR (for himself, Mr. COSTELLO, Mr. DEFAZIO, Mr. CUMMINGS, Ms. CORRINE BROWN of Florida, Mr. RAHALL, Mr. BOSWELL, Mrs. TAUSCHER, Ms. NORTON, Mr. MATHESON, Mr. HOLDEN, Ms. EDDIE

BERNICE JOHNSON of Texas, Mr. WEINER, Mr. NADLER, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. SALAZAR, Mr. HONDA, Mr. PASCRELL, and Mr. CARNAHAN):

H.R. 1818. A bill to amend title 49, United States Code, to make funds available for the Aviation Security Capital Fund, to establish a Checkpoint Screening Security Fund, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER:

H.R. 1819. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits at Federally qualified health centers; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER (for himself and Mrs. BIGGERT):

H.R. 1820. A bill to amend the Illinois and Michigan Canal National Heritage Corridor Act of 1984 to help ensure the appropriate transition of the management entity of the heritage corridor, and for other purposes; to the Committee on Resources.

By Mr. GOODLATTE (for himself, Mr. GOODE, Mr. MORAN of Virginia, Mrs. JO ANN DAVIS of Virginia, Mr. BUCHER, and Mrs. DRAKE):

H.R. 1821. A bill to provide States that meet certain requirements with waivers of the adequate yearly progress provisions of the Elementary and Secondary Education Act of 1965; to the Committee on Education and the Workforce.

By Mrs. BONO (for herself, Ms. DEGETTE, Mr. CASTLE, Mr. MARKEY, and Mr. BASS):

H.R. 1822. A bill to prohibit human cloning and protect stem cell research; to the Committee on Energy and Commerce.

By Mr. ANDREWS (for himself and Ms. JACKSON-LEE of Texas):

H.R. 1823. A bill to amend the Immigration and Nationality Act to extend the provisions governing nonimmigrant status for spouses and children of permanent resident aliens awaiting the availability of an immigrant visa, and for other purposes; to the Committee on the Judiciary.

By Mr. BLUMENAUER:

H.R. 1824. A bill to provide for the duty-free entry of certain tramway cars and associated spare parts for use by the city of Portland, Oregon; to the Committee on Ways and Means.

By Mr. BUTTERFIELD:

H.R. 1825. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the first \$5,000 of each transitional payments under the Fair and Equitable Tobacco Reform Act of 2004; to the Committee on Ways and Means.

By Mr. CARDIN:

H.R. 1826. A bill to extend the temporary suspension of duty on 2-Chlorobenzyl chloride; to the Committee on Ways and Means.

By Mr. CARDIN:

H.R. 1827. A bill to extend the temporary suspension of duty on (Z)-(1R,3RS)-3-(2-Chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylic acid; to the Committee on Ways and Means.

By Mr. CARDIN:

H.R. 1828. A bill to extend the temporary suspension of duty on (S)-Alpha-Hydroxy-3-



phenoxybenzeneacetone nitrile; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1829. A bill to suspend temporarily the duty on Butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidine ethanol; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1830. A bill to extend the duty suspension on 3-amino-2-(sulfato-ethyl sulfonyl) ethyl benzamide; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1831. A bill to extend the duty suspension on MUB 738 INT; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1832. A bill to extend the suspension of duty on 5-amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 1833. A bill to suspend temporarily the duty on mixtures of 1,3,5-Triazine-2,4,6-triamine,N,N''-[1,2-ethane-diyl-bis [ [4,6-bis-[butyl (1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazine-2-yl] imino]-3,1-propanediyl ] bis[N,N''-dibutyl-N,N''-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)-and Butanedioic acid, dimethylester polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidine ethanol; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself and Mr. MARKEY):

H.R. 1834. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California:

H.R. 1835. A bill to amend the Help America Vote Act of 2002 to allow all eligible voters to vote by mail in Federal elections; to the Committee on House Administration.

By Mr. FEENEY:

H.R. 1836. A bill to designate the information center at Canaveral National Seashore as the "T.C. Wilder, Jr., Canaveral National Seashore Information Center"; to the Committee on Resources.

By Mr. FLAKE (for himself, Mr. HAYWORTH, Mr. RENZI, Mr. SHADEGG, and Mr. FRANKS of Arizona):

H.R. 1837. A bill to amend the Endangered Species Act of 1973 to establish limitations on the designation of critical habitat, and for other purposes; to the Committee on Resources.

By Mr. FORBES:

H.R. 1838. A bill to suspend temporarily the duty on 3-Cyclohexene-1-carboxylic acid, 6-[(di-2-propenylamino)carbonyl]-, (1R,6R)-rel-, reaction products with pentafluoroiodoethane-tetrafluoroethylene telomer, ammonium salt; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 1839. A bill to suspend temporarily the duty on Glycine, N,N-Bis[2-hydroxy-3-(2-propenyloxy)propyl]-, monosodium salt, reaction products with ammonium hydroxide and pentafluoroiodoethane-tetrafluoroethylene telomer; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 1840. A bill to suspend temporarily the duty on 5,5-bis[(y,w-perfluoroC4-20alkylthio)methyl]-2-hydroxy-2-oxo -1,3,2-dioxaphosphorinane, ammonium salt and 2,2-bis[(y,w-perfluoroC4-20alkylthio)methyl]-3-hydroxy propyl phosphate, di-ammonium

salt and Di-[2,2-bis[(y,w-perfluoroC4-20alkylthio)methyl]-3-hydroxy propyl phosphate, ammonium salt and 2,2-bis[(y,w-perfluoroC4-20alkylthio)methyl]-1,3-di-(dihydro genphosphate)-propane, tetra-ammonium salt; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 1841. A bill to suspend temporarily the duty on 1(3H)-Isobenzofuranone, 3,3-bis(2-methyl-1-octyl-1H-indol-3-yl)-; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 1842. A bill to suspend temporarily the duty on a mixture of Poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-1,3,5-triazine-2,4-diyl][(2,2,6,6-tetramethyl-4-piperidinyl)imino]-1,6-exanediyl [(2,2,6,6-tetramethyl-4-piperidinyl)imino]] and Bis(2,2,6,6-tetramethyl-4-piperidyl)sebacate; to the Committee on Ways and Means.

By Mr. GRAVES:

H.R. 1843. A bill to suspend temporarily the duty on MCPA; to the Committee on Ways and Means.

By Mr. GRAVES:

H.R. 1844. A bill to suspend temporarily the duty on Bronate Advanced; to the Committee on Ways and Means.

By Mr. GRAVES:

H.R. 1845. A bill to suspend temporarily the duty on Bromoxynil Octanoate Tech; to the Committee on Ways and Means.

By Mr. GRAVES:

H.R. 1846. A bill to suspend temporarily the duty on Bromoxynil MEO; to the Committee on Ways and Means.

By Mr. HENSARLING:

H.R. 1847. A bill to redesignate the National Scientific Balloon Facility in Palestine, Texas, as the "Columbia Scientific Balloon Center"; to the Committee on Science.

By Mr. HOLDEN:

H.R. 1848. A bill to suspend temporarily the duty on certain bitumen-coated polyethylene sleeves specifically designed to protect in-ground wood posts; to the Committee on Ways and Means.

By Mrs. KELLY (for herself, Ms. DELAURO, Mr. THOMPSON of California, Mrs. MALONEY, Mr. SERRANO, Mr. LYNCH, Mr. PLATTS, Ms. WOOLSEY, Mr. MCHUGH, Mr. VAN HOLLEN, Ms. SLAUGHTER, Mr. HALL, Mr. CROWLEY, Mr. WEINER, Mr. KIND, Mr. SCHIFF, Mr. TAYLOR of Mississippi, Ms. SCHAKOWSKY, Mr. LANTOS, Mr. STRICKLAND, Ms. VELÁZQUEZ, Mr. OBERSTAR, Ms. KILPATRICK of Michigan, Mrs. TAUSCHER, Mr. HINCHEY, Mr. HOLDEN, Mr. MCNULTY, Mr. BACA, Mr. DEFazio, Ms. ROYBAL-ALLARD, Mr. SPRATT, Ms. ESHOO, Mr. GEORGE MILLER of California, Mr. DICKS, Mr. HOLT, Mr. REYES, Mr. BISHOP of New York, Mr. ALLEN, Mr. WATT, Mr. PAYNE, Mr. OLVER, Mr. TOWNS, Mr. MCINTYRE, Mr. COOPER, Mr. FORD, Mr. KENNEDY of Rhode Island, Mr. MARKEY, Ms. MILLENDER-MCDONALD, Mr. BROWN of Ohio, Mr. KUCINICH, Mr. MCGOVERN, Mrs. MCCARTHY, Mr. EMANUEL, Mr. FILNER, Ms. HARMAN, Mr. ABERCROMBIE, Mr. SMITH of Washington, Mr. AL GREEN of Texas, Mrs. CHRISTENSEN, Mr. BERRY, Mr. WEXLER, Mr. MCDERMOTT, Mr. SCOTT of Virginia, Mr. JACKSON of Illinois, Mr. BOUCHER, Mr. PALLONE, Mr. NADLER, Mr. KILDEE, Mr. OWENS, Mr. WYNN, Mr. LANGEVIN, Mr. SHERMAN, Mr. PASTOR, Mr. TIERNEY, Mr. STUPAK, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MILLER of North Carolina, Ms. MCCOLLUM of Minnesota, Mr. HINOJOSA, Ms. DEGETTE, Mr. SAND-

ERS, Mr. CHANDLER, Mr. MEEHAN, Ms. BORDALLO, Mr. LARSEN of Washington, Mr. DOYLE, Mr. LEWIS of Georgia, Mr. CONYERS, Ms. BALDWIN, Mrs. LOWEY, Mr. UDALL of Colorado, Mr. CLAY, Mr. LARSON of Connecticut, Mr. BURTON of Indiana, Mr. JEFFERSON, Mr. FATTAH, Mr. GONZALEZ, Mr. INSLEE, Ms. LEE, Mr. RUSH, Mr. SIMMONS, Ms. HART, Ms. HOOLEY, Mr. MORAN of Virginia, Ms. NORTON, Ms. SOLIS, Mrs. JO ANN DAVIS of Virginia, Mrs. NAPOLITANO, Mr. RYAN of Ohio, Mr. LEVIN, Mr. GUTIERREZ, Mr. BAIRD, Mr. BERMAN, and Mr. ROSS):

H.R. 1849. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself and Mr. KING of New York):

H.R. 1850. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. NUNES:

H.R. 1851. A bill to suspend temporarily the duty on nylon woolpacks used to package wool; to the Committee on Ways and Means.

By Mr. OTTER (for himself and Mr. SIMPSON):

H.R. 1852. A bill to direct the Secretary of the Interior to extend certain water contracts in Idaho, and for other purposes; to the Committee on Resources.

By Mr. RAMSTAD (for himself and Mr. MOORE of Kansas):

H.R. 1853. A bill to ensure that the total amount of funds awarded to a State under part A of title I of the Elementary and Secondary Education Act of 1965 for each of fiscal years 2005 and 2006 is not less than the total amount of funds awarded to the State under such part for fiscal year 2003; to the Committee on Education and the Workforce.

By Mr. RANGEL:

H.R. 1854. A bill to suspend temporarily the duty on magnesium zinc aluminum hydroxide carbonate hydrate; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 1855. A bill to extend the temporary suspension of duty on magnesium aluminum hydroxide carbonate hydrate; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 1856. A bill to extend the temporary duty suspension on C12-18 Alkenes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 1857. A bill to extend the temporary suspension of duty on polytetramethylene ether glycol; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 1858. A bill to extend the temporary suspension of duty on cis-3-Hexen-1-ol; to the Committee on Ways and Means.

By Mr. RENZI:

H.R. 1859. A bill to make careers in public service more feasible for students who graduate with high educational loan debt; to the Committee on Education and the Workforce.

By Mr. ROHRBACHER (for himself and Mr. JONES of North Carolina):

H.R. 1860. A bill to amend the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 to exempt from the means test in

bankruptcy cases, for a limited period, qualifying reserve-component members who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 60 days; to the Committee on the Judiciary.

By Ms. SCHWARTZ of Pennsylvania (for herself, Mr. MCGOVERN, and Mr. DAVIS of Illinois):

H.R. 1861. A bill to direct the Consumer Product Safety Commission to issue regulations concerning the safety and labeling of certain furniture and electronic appliances; to the Committee on Energy and Commerce.

By Mr. STEARNS (for himself, Mr. BASS, Mr. UPTON, Mrs. BLACKBURN, and Mr. GENE GREEN of Texas):

H.R. 1862. A bill to direct the Secretary of Commerce to issue regulations requiring testing for steroids and other performance-enhancing substances for certain sports associations engaged in interstate commerce; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico (for herself and Mr. PETERSON of Minnesota):

H.R. 1863. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to make available additional funds to increase access to the arts through the support of education; to the Committee on Education and the Workforce.

By Mr. WYNN:

H.R. 1864. A bill to provide for enhanced retirement benefits for administrative law judges; to the Committee on Government Reform.

By Mr. YOUNG of Alaska:

H.R. 1865. A bill to direct the Secretary of the Interior to release the condition on a portion of land adjacent to the community of Beaver, Alaska, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 1866. A bill to facilitate shareholder consideration of making Settlement Common Stock under the Alaska Native Claims Settlement Act available to Alaska Natives born after December 18, 1971, descendants of Alaska Natives born after December 18, 1971, missed enrollees, and Native Elders, and for other purposes; to the Committee on Resources.

By Mr. SCHWARZ of Michigan (for himself, Ms. WATSON, Mr. MCCOTTER, Mr. FORBES, Mr. MCHUGH, Mr. DAVIS of Kentucky, Mr. LARSEN of Washington, and Mr. BRADY of Pennsylvania):

H.J. Res. 44. A joint resolution honoring the life and legacy of Frederick William Augustus von Steuben and recognizing his contributions on the 275th anniversary of his birth; to the Committee on Government Reform.

By Mr. NEY (for himself and Ms. MILLENDER-MCDONALD):

H. Res. 232. A resolution permitting official photographs of the House of Representatives to be taken while the House is in actual session on a date designated by the Speaker; to the Committee on House Administration, considered and agreed to.

By Mr. GALLEGLY (for himself, Mr. WEXLER, Mr. LANTOS, Mr. MCCOTTER, Mr. WILSON of South Carolina, Mr. VAN HOLLEN, Mr. MCCAUL of Texas, and Mr. SHERMAN):

H. Res. 233. A resolution recognizing the 60th anniversary of Victory in Europe (V-E) Day during World War II; to the Committee on International Relations, and in addition

to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MOLLOHAN:

H. Res. 234. A resolution providing for consideration of the resolution (H. Res. 131) amending rule XI of the Rules of the House of Representatives with regard to the procedures of the Committee on Standards of Official Conduct; to the Committee on Rules.

By Ms. DEGETTE (for herself, Mr. BEAUPREZ, Mr. HEFLEY, Mrs. MUSGRAVE, Mr. SALAZAR, Mr. TANCREDO, and Mr. UDALL of Colorado):

H. Res. 237. A resolution congratulating the University of Denver Pioneers for winning the 2005 National Collegiate Athletic Association Division I Men's Ice Hockey Championship; to the Committee on Education and the Workforce.

By Mr. SABO (for himself, Mr. RAMSTAD, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. KENNEDY of Minnesota, Ms. MCCOLLUM of Minnesota, Mr. KLINE, and Mr. GUTKNECHT):

H. Res. 238. A resolution commending the University of Minnesota women's ice hockey team for winning the 2004-2005 National Collegiate Athletic Association Division I Women's Ice Hockey Championship, and for other purposes; to the Committee on Education and the Workforce.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. ANDREWS introduced a bill (H.R. 1867) for the relief of Mohammed Manir Hossain, Ferdous Ara Manir, and Maish Samiha Manir; which was referred to the Committee on the Judiciary.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. SALAZAR, Mr. MELANCON, and Mr. DOGGETT.

H.R. 13: Mr. JOHNSON of Illinois, Mr. BEAUPREZ, Mr. UPTON, Mrs. WILSON of New Mexico, Mr. ROSS, and Mr. NORWOOD.

H.R. 19: Mr. FOLEY.

H.R. 22: Mr. MARCHANT, Mr. COSTA, Mr. GERLACH, Mr. TIBERI, and Mr. MCKEON.

H.R. 23: Mr. WAMP, Mr. FRANKS of Arizona, Mr. LIPINSKI, Ms. MATSUI, Mr. NADLER, Mr. CONYERS, Mr. YOUNG of Alaska, Mr. CLEAVER, Mr. RANGEL, Ms. LINDA T. SANCHEZ of California, Mr. HALL, and Mr. UPTON.

H.R. 25: Mr. FRANKS of Arizona.

H.R. 47: Mr. RENZI.

H.R. 98: Mr. SENSENBRENNER.

H.R. 111: Mr. KIRK, Mr. FRANKS of Arizona, Mrs. JO ANN DAVIS of Virginia, Mr. TANCREDO, and Mr. BOUSTANY.

H.R. 136: Mrs. MUSGRAVE.

H.R. 153: Mr. MARKEY, Mr. ROTHMAN, Mr. BISHOP of New York, and Mr. SERRANO.

H.R. 292: Mrs. DRAKE.

H.R. 302: Mr. GRIJALVA.

H.R. 303: Mr. COOPER, Mr. LAHOOD, Mr. BOUSTANY, Ms. LORETTA SANCHEZ of California, Mr. MEEHAN, Mr. CONAWAY, Mr. BLUMENAUER, Mr. DUNCAN, and Mr. MELANCON.

H.R. 333: Mr. CARDOZA and Mrs. JONES of Ohio.

H.R. 339: Mr. MCCAUL of Texas.

H.R. 363: Ms. ESHOO and Mr. CONYERS.

H.R. 371: Mr. MCDERMOTT and Mr. DEFAZIO.  
H.R. 438: Mr. MCKEON and Mr. RADANOVICH.  
H.R. 442: Mr. KINGSTON, Mrs. JO ANN DAVIS of Virginia, Mr. HAYWORTH, Mr. GARY G. MILLER of California, Mr. SENSENBRENNER, Mr. CHOCOLA, and Mr. FLAKE.

H.R. 515: Mr. KANJORSKI and Mr. CARDOZA.  
H.R. 534: Mr. CONAWAY, Mr. BONNER, and Mr. BOOZMAN.

H.R. 539: Mr. BLUNT, Mr. MARIO DIAZ-BALART of Florida, Ms. MILLENDER-MCDONALD, Mr. OWENS, Mr. ENGEL, Mr. GRIJALVA, Mr. BUTTERFIELD, Ms. BORDALLO, Mr. FEENEY, Mr. MENENDEZ, and Mr. RANGEL.

H.R. 554: Mr. BONILLA.

H.R. 556: Ms. BEAN and Mrs. ROYBAL-AL-LARD.

H.R. 558: Mr. FARR, Mr. DEFAZIO, Mr. LAHOOD, Mr. RANGEL, and Mr. MELANCON.

H.R. 559: Ms. MILLENDER-MCDONALD and Mr. WAXMAN.

H.R. 562: Mr. WEINER.

H.R. 567: Mr. MOORE of Kansas.

H.R. 583: Mr. LANTOS, Mr. GONZALEZ, Mr. WAMP, and Ms. HART.

H.R. 588: Mr. ANDREWS.

H.R. 602: Mr. LIPINSKI, Mr. FRANKS of Arizona, Ms. LORETTA SANCHEZ of California, Mr. JOHNSON of Illinois, Mr. MEEK of Florida, Mr. JACKSON of Illinois, and Mr. ALEXANDER.

H.R. 615: Mr. KANJORSKI, Mr. ACKERMAN, Mr. COSTELLO, Mr. CUELLAR, and Mr. LARSEN of Washington.

H.R. 633: Mr. ANDREWS.

H.R. 653: Mr. TIERNEY.

H.R. 689: Mr. EVERETT.

H.R. 691: Mr. FRELINGHUYSEN and Mr. WYNN.

H.R. 752: Mr. KILDEE, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 754: Mr. BUTTERFIELD.

H.R. 800: Mr. BOSWELL, Mr. MCKEON, Mrs. WILSON of New Mexico, and Mr. COBLE.

H.R. 807: Mr. LANTOS, Mr. PASCRELL, and Mr. MCGOVERN.

H.R. 809: Mrs. KELLY, Mr. CHOCOLA, Mr. SWEENEY, Mr. FOSSELLA, Mr. FEENEY, Mr. JINDAL, and Mrs. JOHNSON of Connecticut.

H.R. 810: Mr. JEFFERSON, Mr. HINOJOSA, Mr. BOYD, Mr. CUELLAR, and Mr. CRAMER.

H.R. 818: Mr. BLUMENAUER.

H.R. 819: Mr. FOLEY, Mr. CHOCOLA, and Mr. MCDERMOTT.

H.R. 827: Mr. SESSIONS.

H.R. 887: Ms. ZOE LOFGREN of California, Mrs. DRAKE, Mr. MORAN of Virginia, Mr. FARR, and Mr. FRANK of Massachusetts.

H.R. 899: Ms. SCHAKOWSKY.

H.R. 918: Mr. FEENEY.

H.R. 923: Mr. INSLIE, Mr. DEFAZIO, Mr. SWEENEY, and Mr. ROGERS of Alabama.

H.R. 934: Mrs. KELLY, Mr. ETHERIDGE, Mr. KUHL of New York, and Ms. JACKSON-LEE of Texas.

H.R. 952: Mr. MORAN of Virginia.

H.R. 955: Mr. GRIJALVA.

H.R. 997: Mr. BOUSTANY, Mr. ADERHOLT, and Mr. LINDER.

H.R. 999: Mr. BISHOP of New York, Mr. WOLF, Mrs. CHRISTENSEN, Mr. ISRAEL, Mr. REYES, and Mr. PLATTS.

H.R. 1002: Mr. LEVIN, Mr. KING of New York, Mr. KILDEE, Mr. ANDREWS, and Mr. PASCRELL.

H.R. 1033: Mr. SCOTT of Georgia.

H.R. 1059: Mr. KENNEDY of Rhode Island.

H.R. 1092: Mr. COX.

H.R. 1103: Mr. STARK, Mr. FRANK of Massachusetts, and Mr. FILNER.

H.R. 1124: Ms. BALDWIN and Mr. DEFAZIO.

H.R. 1130: Ms. DELAUNO and Mr. FATTAH.

H.R. 1132: Mr. GONZALEZ, Mr. JINDAL, Mr. WYNN, Mrs. CHRISTENSEN, Mr. RUSH, Mr. KILDEE, Mr. BLUNT, Mr. SHIMKUS, Mr. DICKS, Mr. BACHUS, Mr. CHANDLER, Mr. STUPAK, Mr. PICKERING, Mr. SHAYS, Mrs. BONO, and Mr. ALEXANDER.

- H.R. 1146: Mr. DUNCAN.  
 H.R. 1157: Ms. MATSUI.  
 H.R. 1175: Mr. MOORE of Kansas, Mr. FILLNER, Mr. GONZALEZ, and Mr. HINCHEY.  
 H.R. 1182: Mr. OWENS, Ms. SCHAKOWSKY, and Mr. JEFFERSON.  
 H.R. 1185: Mr. BEAUPREZ.  
 H.R. 1204: Mr. SAXTON, Mr. GENE GREEN of Texas, Ms. DEGETTE, Mr. DAVIS of Florida, Ms. VELÁZQUEZ, Mr. GORDON, Mr. SANDERS, Ms. BEAN, Mr. SPRATT, and Mr. JACKSON of Illinois.  
 H.R. 1217: Mr. LARSEN of Washington.  
 H.R. 1226: Mr. ROYCE.  
 H.R. 1279: Mr. ETHERIDGE.  
 H.R. 1285: Mr. HYDE.  
 H.R. 1322: Mr. GRIJALVA, Mr. PALLONE, Mr. DOGGETT, Mr. OWENS, and Mr. SERRANO.  
 H.R. 1329: Mr. FARR, Mr. KILDEE, and Mrs. MALONEY.  
 H.R. 1355: Ms. MOORE of Wisconsin, Mr. HASTINGS of Florida, Mr. INSLEE, Mr. BOUSTANY, and Mr. BURTON of Indiana.  
 H.R. 1357: Mr. CANNON and Mr. TIBERI.  
 H.R. 1364: Mr. ABERCROMBIE.  
 H.R. 1366: Mr. DEFAZIO, Mr. LAHOOD, Ms. HARRIS, Mr. RAMSTAD, and Mr. MELANCON.  
 H.R. 1373: Mr. CONYERS, Mr. GENE GREEN of Texas, Mr. COSTA, and Mrs. DRAKE.  
 H.R. 1376: Mr. KING of New York, Mrs. KELLY, Mr. LANTOS, and Ms. BALDWIN.  
 H.R. 1390: Mr. JEFFERSON, Mr. MCGOVERN, and Mr. CONYERS.  
 H.R. 1397: Mr. REYNOLDS.  
 H.R. 1406: Mr. MILLER of Florida, Mr. CALVERT, Mr. LYNCH, and Mrs. DRAKE.  
 H.R. 1408: Mr. BLUMENAUER.  
 H.R. 1413: Mr. ROTHMAN.  
 H.R. 1424: Mr. MEEK of Florida, Mr. DOGGETT, Mrs. NAPOLITANO, Mrs. TAUSCHER, Mr. SCHWARZ of Michigan, and Mr. SHIMKUS.  
 H.R. 1426: Mr. BLUMENAUER and Mr. RUSH.  
 H.R. 1440: Mr. SERRANO, Mr. GRIJALVA, and Mr. FILNER.  
 H.R. 1469: Mrs. CUBIN and Mr. FLAKE.  
 H.R. 1471: Mr. KILDEE.  
 H.R. 1480: Mr. RUPPERSBERGER, Mr. WYNN, Mr. STARK, Mr. HINCHEY, Mr. GRIJALVA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DOGGETT, Mr. MCGOVERN, and Mr. ALLEN.  
 H.R. 1491: Mr. LIPINSKI.  
 H.R. 1496: Mr. BOSWELL, Mr. HAYES, Mr. EHLERS, and Mr. MORAN of Virginia.  
 H.R. 1500: Mr. KOLBE and Mr. FLAKE.  
 H.R. 1505: Mr. INSLEE, Mr. HASTINGS of Florida, Ms. MOORE of Wisconsin, Mr. HIGGINS, Mrs. NAPOLITANO, Ms. BEAN, Ms. CORRINE BROWN of Florida, Mr. CUELLAR, Mrs. NORTHUP, Mr. MUSGRAVE, Mr. WHITFIELD, Mr. REICHERT, Mr. BOUSTANY, Mr. ROGERS of Michigan, Mr. STEARNS, Mr. COSTA, Mr. BURTON of Indiana, Mr. HAYES, Mrs. JOHNSON of Connecticut, and Mr. CUNNINGHAM.  
 H.R. 1521: Ms. SCHAKOWSKY.  
 H.R. 1544: Mr. PRICE of Georgia and Mr. FRELINGHUYSEN.  
 H.R. 1553: Mr. FALEOMAVAEGA, Mr. SHERMAN, Mr. PRICE of North Carolina, and Mr. BLUMENAUER.  
 H.R. 1554: Ms. KAPTUR, Mr. COSTELLO, Mr. KILDEE, and Mr. HOLT.  
 H.R. 1575: Mr. MCHUGH, Mr. BERRY, Mr. DINGELL, Mr. COSTELLO, and Mr. TERRY.  
 H.R. 1588: Mr. EDWARDS, Mr. SKELTON, Mr. BLUMENAUER, Mr. HONDA, and Mr. COSTELLO.  
 H.R. 1595: Mr. SCHWARZ of Michigan.  
 H.R. 1608: Mr. CARNAHAN and Mr. COSTELLO.  
 H.R. 1620: Mr. BAIRD, Mr. UDALL of Colorado, and Mr. BERMAN.  
 H.R. 1635: Mr. CARTER and Mrs. DRAKE.  
 H.R. 1636: Mr. VAN HOLLEN and Mr. SAXTON.  
 H.R. 1639: Mr. LYNCH and Ms. WOOLSEY.  
 H.R. 1652: Mr. LANTOS, Mr. WEINER, and Mr. DICKS.  
 H.R. 1668: Mr. STRICKLAND, Mrs. NAPOLITANO, Ms. MCCOLLUM of Minnesota, and Mr. MCDERMOTT.  
 H.R. 1678: Mr. BEAUPREZ.  
 H.R. 1688: Mr. INSLEE and Mr. SHERMAN.  
 H.R. 1694: Mr. BLUMENAUER.  
 H.R. 1696: Mr. FARR, Mr. BAIRD, Mr. ISRAEL, and Mr. PRICE of North Carolina.  
 H.R. 1704: Mr. SCOTT of Virginia, Ms. NORTON, Mr. BOUCHER, and Mr. WOLF.  
 H.R. 1709: Mr. CARNAHAN, Ms. BALDWIN, Mr. MORAN of Virginia, Ms. LEE, Ms. HOOLEY, Mr. MCDERMOTT, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. CROWLEY, Mr. ENGEL, Mr. DELAHUNT, Mr. INSLEE, Mr. WEXLER, Mr. OLVER, Ms. MCCOLLUM of Minnesota, Mr. MOORE of Kansas, Mrs. CAPPS, Mr. SMITH of Washington, Ms. WOOLSEY, Mr. McNULTY, Mr. PASCRELL, Ms. SOLIS, Mr. GENE GREEN of Texas, Ms. ESHOO, Mr. SCHIFF, Mr. KIND, Mr. ALLEN, Mr. SANDERS, Ms. SCHAKOWSKY, Ms. ZOE LOFGREN of California, Ms. HARMAN, Mr. BLUMENAUER, Mr. LARSEN of Washington, and Ms. DELAURO.  
 H.R. 1729: Mr. WAXMAN and Mr. RANGEL.  
 H.R. 1736: Mr. FRANKS of Arizona and Mr. DREIER.  
 H.R. 1749: Mr. BOOZMAN, Mr. NEY, and Mr. FLAKE.  
 H.J. Res. 10: Mr. YOUNG of Alaska, Mr. BACHUS, Mr. CRAMER, Mr. FRANKS of Arizona, and Mr. FRELINGHUYSEN.  
 H.J. Res. 14: Mr. MILLER of Florida.  
 H.J. Res. 16: Mr. FLAKE.  
 H.J. Res. 38: Mr. SIMMONS.  
 H. Con. Res. 24: Mr. EDWARDS, Mr. GEORGE MILLER of California, and Mr. ROTHMAN.  
 H. Con. Res. 40: Mr. ANDREWS.  
 H. Con. Res. 69: Mr. FRANKS of Arizona.  
 H. Con. Res. 71: Mrs. NAPOLITANO, Mr. CONYERS, Mrs. MALONEY, Mr. NADLER, Mr. DAVIS of Florida, and Mr. BROWN of Ohio.  
 H. Con. Res. 90: Mr. SABO, Mr. CONYERS, Ms. DELAURO, Mr. FARR, Ms. ROYBAL-AL-LARD, Mr. McNULTY, Mr. GRIJALVA, Mr. BROWN of Ohio, Mr. SERRANO, and Mr. ORTIZ.  
 H. Con. Res. 96: Ms. WATSON, Mr. SCOTT of Virginia, Ms. SOLIS, and Ms. JACKSON-LEE of Texas.  
 H. Con. Res. 99: Mr. REYES and Mr. BISHOP of Georgia.  
 H. Con. Res. 127: Mr. MEEKS of New York, Ms. LORETTA SANCHEZ of California, Mr. DEFAZIO, Mr. BISHOP of Georgia, Mr. BUTTERFIELD, Mr. WYNN, Mr. SCOTT of Georgia, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. OWENS, Mr. PAYNE, Mr. FATTAH, and Mr. CLAY.  
 H. Con. Res. 128: Mr. SCOTT of Georgia.  
 H. Con. Res. 131: Mr. RAMSTAD.  
 H. Con. Res. 132: Mr. SIMPSON and Mr. GARRETT of New Jersey.  
 H. Res. 67: Mrs. NAPOLITANO, Mr. BACA, and Mr. PRICE of North Carolina.  
 H. Res. 84: Mrs. NORTHUP and Mr. HOSTETTLER.  
 H. Res. 85: Mr. WEXLER.  
 H. Res. 116: Mr. WU, Mrs. NAPOLITANO, Mr. HOLT, Mr. CLAY, and Mr. CARNAHAN.  
 H. Res. 158: Ms. LEE.  
 H. Res. 166: Mr. MCGOVERN, Mr. CARDOZA, and Ms. WATSON.  
 H. Res. 169: Mrs. BONO.  
 H. Res. 175: Mr. BISHOP of Georgia, Mr. NEAL of Massachusetts, Mr. MARKEY, Mr. MORAN of Virginia, and Mr. LIPINSKI.  
 H. Res. 193: Mr. MILLER of Florida, Mr. KINGSTON, and Mr. BERMAN.  
 H. Res. 195: Mr. GALLEGLY, Mr. ISSA, Mr. MCCOTTER, Mr. WILSON of South Carolina, Mr. SMITH of New Jersey, Mr. WEXLER, Mr. ENGEL, Mrs. NAPOLITANO, Mr. CHANDLER, Mr. TIAHRT, and Mr. LIPINSKI.  
 H. Res. 215: Mr. WILSON of South Carolina, Mr. PENCE, Mr. FEENEY, Mr. MCHENRY, Mr. FRANKS of Arizona, and Mr. GINGREY.  
 H. Res. 220: Mr. BURTON of Indiana, Mr. McNULTY, Mr. MOORE of Kansas, Mr. TURNER, Mr. BRADY of Pennsylvania, Mr. GENE GREEN of Texas, Mr. OWENS, and Mr. KUHL of New York.  
 H. Res. 227: Mr. ACKERMAN.  
 H. Res. 228: Mr. GRIJALVA, Mr. DAVIS of Florida, Mr. GONZALEZ, Mr. BROWN of Ohio, Mr. MENENDEZ, Mr. WYNN, Mr. LEWIS of Georgia, Mr. HASTINGS of Florida, Mr. STRICKLAND, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. CONYERS, Mr. ROTHMAN, Mr. MEEKS of New York, Mr. YOUNG of Florida, Mr. ROHRBACHER, Mr. BONILLA, Mr. COBLE, Ms. ROS-LEHTINEN, Mr. HALL, Mr. GENE GREEN of Texas, Mr. DELAHUNT, Mr. ISRAEL, Mr. MOORE of Kansas, Mr. CUNNINGHAM, Mr. MARIO DIAZ-BALART of Florida, Mr. ROYCE, and Mrs. JO ANN DAVIS of Virginia.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

- H.R. 1762: Mrs. JOHNSON of Connecticut, Mr. JINDAL, and Mr. FEENEY.



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, TUESDAY, APRIL 26, 2005

No. 52

## Senate

The Senate met at 9:45 a.m. and was called to order by the Hon. JIM TALENT, a Senator from the State of Missouri.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, we look to You for hope. Teach us the power of being quiet in Your presence. Shelter us from the noise, tension, sound, and fury that bewilder us. Remind us to be still in order to know Your wisdom. Help us to see that those who love You are never alone, for we are sustained by Your powerful companionship.

May we find our peace in the knowledge that You are always with us. Bless our Senators. Give them the wisdom to trust You without wavering. Make them constantly aware of Your unfailing love. Rescue them from danger and keep their feet from slipping.

We pray this in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JIM TALENT led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, April 26, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM TALENT, a Sen-

ator from the State of Missouri, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. TALENT thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. FRIST. Mr. President, today we will begin our session with a 1-hour period of morning business. Following morning business, the Senate will have an hour for debate on the motion to proceed to the highway bill. Under the order, after the 60 minutes of debate, the Senate will begin a vote on the motion to invoke cloture on the motion to proceed to the highway legislation.

I do expect that cloture will be invoked and that we would be able to consider the substance of the bill during today's session. Once we are on the bill, Senators can expect amendments. Therefore, additional rollcall votes will occur today.

Today we will also recess from the hour of 12:30 to 2:15 to accommodate the weekly policy luncheons.

In addition to the highway bill, this week we will consider any conference reports that become available. We hope both the budget and the emergency supplemental conference reports will be ready for floor consideration before we conclude our business this week.

Finally, I would announce we have several district judges who should be cleared for Senate action. If votes are

necessary on those nominations, we will be scheduling those votes periodically throughout the week.

I yield the floor.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be time for the transaction of morning business for up to 60 minutes, with the first half hour under the control of the Democratic leader or his designee and the second half hour under the control of the majority leader or his designee.

The Senator from New York.

### JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, I rise under morning business to discuss some events that occurred overnight. Most important, there is a story in today's USA Today, based on a direct interview, that Karl Rove rejected a compromise with Senate Democrats Monday on long-stalled nominations for the Federal judiciary and strongly defended President Bush's choice of John Bolton.

I am going to talk about the first matter.

It is disconcerting and surprising to see an aide to the President, an important aide, tell the Senate how to conduct itself. The Senate has conducted itself by its own rules for decades—for centuries. Those rules, by the design of the Founding Fathers, written into the Constitution, talk about the Senate as being a preserve of minority rights. The Founding Fathers called it the cooling saucer.

It is clear, if you read the Federalist Papers and look at the history of this Republic, that when a Senate minority of 45 rejects 10 out of 215 judges and supports 205 out of 215, that is the very way the Founding Fathers wanted the Senate to behave. After all, one of the very earliest nominations of President

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



Printed on recycled paper.

S4225

Washington, John Rutledge, was rejected by the Senate for the Supreme Court—rejected by the Senate. In that Senate were I believe eight Founding Fathers, the people who wrote the Constitution, rejecting the President's choice.

We have, in a certain sense, people way out of the mainstream, way over—a small group—telling the Republican Party in the Senate and telling the President that they must have all the judges, including the most extreme. Because, after all, it was only the most extreme we rejected, judges who believe, for instance, that the New Deal was a socialist revolution and should be undone; judges who believe zoning laws are unconstitutional; judges who believe the purpose of a woman should be to be subjugate herself to a man; judges who believe slavery was God's gift to white people.

These are some of the judges we have rejected. It was not based on any one particular issue. People say this is all code for abortion. It is not. I have voted for I believe it is about 190 of the judges. The overwhelming majority do not agree with me on abortion, but I believe they met the ultimate test, that they would interpret the law, not make law. Thus, even though they had strongly held beliefs on their own, they would be good judges. The 10 we rejected failed that test. They feel so passionately that they have to impose their views.

One of them, Priscilla Owen of Texas, was criticized repeatedly by conservative members of her own court, the Texas Supreme Court, for placing her interpretation of law ahead of the standard interpretation, the interpretation everybody accepted.

So we were proud to do our constitutional duty and reject these judges, judges we were not consulted about, judges who were way out of the mainstream.

Now, because of the demands of a few—way over, way out there—it seems the majority leader is pushing the so-called nuclear option. The problem is a large number, a good number of people on the other side, do not want to do the nuclear option. They know it would change the rules in the middle of the game. You don't change the rules in the middle of the game because you cannot get your way on every single judge. Our Constitution, our system of laws, is too hallowed, is too important to do that.

These wavering Republican Senators know the Senate has been the repository of checks and balances. That is why we have not done the nuclear option yet. I have to say I wish the majority leader would not be moving it. He should as a Senator stand up for the rights of the Senate. He should as an American stand up for the rights of the American people. But that has not happened.

Yesterday they had to call the heavy guns in. Karl Rove, a member of the executive branch, told the Senate Republicans there should be no compromise.

It is quite natural, by the way, that the White House would not want a Senate with checks and balances. This is not simply true of Republican Presidents, it is true of all Presidents, whether they be Democrat or Republican. They want to have their way. They regard the legislature, and particularly the Senate, as sort of a pesky obstacle to getting their way.

But the wisdom of our Republic has shown that when the Senate does slow things down, when the Senate does invoke checks and balances, the Republic is better off.

Now we have Karl Rove telling the Senate how they ought to act—how we ought to act—to change a tradition of 200 years.

Senator REID has said publicly that the President told him the White House would stay out of this. That is clearly not the case. The White House is not staying out of this and they are trying to aggrandize executive power. The American people, though, are not buying it. There is a story today in the Washington Post that shows “. . . by a 2 to 1 ratio”—that is pretty strong, that is more than the filibuster amount—

the public rejected easing the Senate rules in a way that would make it harder for Democratic Senators to prevent final action on Bush's nominees. Even many Republicans were reluctant to abandon current Senate confirmation procedures. Nearly half opposed any rule changes, joining eight in 10 Democrats and seven in 10 political independents. . . .

The American public may not follow minute to minute, day by day, what we do on this floor, but they have a pretty good nose to smell what is going on. What they smell is a whiff of extremism, a whiff of “I can't get my way so I change the rules in the middle of the game,” a whiff of “not simply a fight of the moment over a particular judge but rather a desire not to live with the traditions of this body and this Republic, which involves compromise and mediation.”

Honestly, when I recommended to our caucus early on that we filibuster a few of the judges and then later that we prevent and stand up to the nuclear option no matter what it took, I thought we would lose politically. I thought the argument: “Well, have 51 votes on everything” would prevail. But the American people's wisdom is large, deep, and hard to fool. The American people have said they understand what is going on. When the Republicans were in charge, they didn't allow judges to come out. We are not in charge now and the filibuster is a way of mitigating the President's desire to put whomever he wants on the bench and that the filibuster is appropriate.

I do not believe what some on the other side say, that the public is with the Democrats because they have gotten their message out ahead of us. Please. The public is with the Democrats in this case, not because they are Democratic and not because they may agree with the stand or disagree with

the stand of each of the judges we have rejected—although I suspect that would be the case if they knew—the public is with us because they understand fundamentally the checks and balances that are so important in this Republic and that because a President gets 51½ percent of the vote he doesn't always have to get his way, particularly when it comes to choosing the third, unelected—only unelected branch of Government.

So Mr. Rove can order Senators not to compromise. I hope and pray the Senators will not take direction from the White House on something where the interests of the White House, whatever party the President might be, are different from those of the Senate and frankly different from the Republic's—and I believe they will not.

The wisdom of the American people is strong. I let my colleagues know, if they should try to invoke the nuclear option and it succeeds, we will have no choice but to enforce the Senate rules and try to bring up issues the American people want us to bring up: the high cost of energy and gasoline, health care, education. We do not usually do that because of comity in the Senate. After all, the other party is the majority party.

But if they are not respecting the rights of the minority, as a majority, they do not deserve that same deference. What we will do is not shut down the Senate, not not show up. We will, rather, use the remaining rules at our disposal to bring up issues the American people care about.

Again, my plea to my colleagues on the other side—I know many of them have doubts about this nuclear option but are under tremendous pressure—resist the entreaties of the executive branch, in this case in the personification of Mr. Rove, stand tall, stand firm. Do not change the rules in the middle of the game; protect the sacred checks and balances at the core of the Republic by rejecting this trampling on the rules, the so-called nuclear option.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from North Dakota is recognized.

Mr. DORGAN. How much time remains on our side?

The PRESIDING OFFICER. There are 18 minutes.

#### DANGEROUS POLITICAL INTERSECTION

Mr. DORGAN. Mr. President, everyone in this country knows what a dangerous intersection is. We all drive and understand the consequences of a dangerous intersection. We are coming to a dangerous intersection in American politics, especially in the Congress: first, by actions that are, on their face, wrong and are harmful to our country; and second, by inaction on matters that cry out for attention—but, again, get none in this Congress and by this administration.

We face a different kind of politics than most have experienced before when we see prominent members of the Congress participate in exercises with outside groups who suggest those who are not with them on the issues are people who lack faith, are people who are not people of faith. Those are dangerous grounds to tread on politically. Yet they do it and do it willingly.

As I was listening to my colleague, I remembered going to a puppet show my daughter participated in during grade school some years ago. Of course, in a puppet show you see only the puppet; you do not see who is behind the black cloth. There are puppet shows going on here in the Congress, of course, and in the administration. Perhaps today's USA Today tells us a little bit about who is behind the screen. The chief political adviser to the White House, Mr. Karl Rove, says there will be no compromise on this issue of judges. It seems to me, a White House that has said it is not involved in this issue is clearly neck deep in this issue, and perhaps is the one behind the screen in this case. Whether it is on this so-called nuclear option with respect to the vote on the judges in the Senate or the Social Security debate going on regarding whether we should privatize Social Security as recommended by the White House, Mr. Rove has played a very prominent role.

To take Social Security for a moment, the memorandum leaked in January from the White House by the chief strategist on this issue, who works for Mr. Rove, said that, for the first time in six decades, we have a chance to win on Social Security.

What does that mean? It means they have never liked Social Security. They want to take Social Security apart. That memorandum also said we have to claim there is a crisis and convince people there is a crisis in Social Security. Of course, it is not working because there is not a crisis in Social Security which has been and is an enormously important program, lifting tens of millions of senior citizens out of poverty in this country. The fact is that Social Security will be fully solvent until President George W. Bush is 106 years old. That is hardly a crisis.

People are living longer, and we may need to make adjustments in Social Security as we move along, but it does not require major surgery. And, the President's proposal to borrow \$5 trillion and then stick it in the stock market and cut Social Security benefits and sit back and hope, is not much of a plan.

It is interesting to me that the American people, in poll after poll after poll, are rejecting this. I was at a Social Security forum over the weekend. We did them in several States. A fellow came up to us at the forum and said, I am 88 years old. I am blind, and Social Security is all I have. I think people are very concerned about this notion of sticking this money in private accounts and just hoping, after

you have borrowed trillions, hoping somehow things will be better.

Whether it is Social Security and private accounts and the attempt to take the Social Security system apart or this issue of the nuclear option because the majority party and the President have gotten only 95 percent of the Federal judges they want, these intersections are dangerous.

Let me describe the danger of the intersection with respect to the so-called nuclear option. The Constitution of the United States is clear about judges. In fact, originally when they put this Constitution together, they felt perhaps they would have the Senate or the Congress appoint judges. Instead, there is a two-step process. The President decides who shall be nominated to the Senate for a lifetime appointment on the Federal bench to the Federal courts and then the Senate decides whether they will support that nomination. It is called advice and consent. This President, President Bush, has sent the Senate 215 nominees to serve for a lifetime on the Federal court. We have supported 205 of them. That is 95 percent. But that is not enough. The President and the majority party say we want it all.

I remember people like that on the playground when I was in school. They want it all. If they do not get it all, they are going to take their bat and ball and go home. In this case, if they do not get it all, they will violate the Senate rules in order to change the Senate rules. How will they violate the rules? They will overturn precedent in the Senate in terms of how the rules are changed. It takes 67 votes to change the rules of the Senate. The so-called nuclear option devised by the majority party is a strategy by which they will overturn the ruling of the Parliamentarian that the rules are being violated, and by a majority vote, overturn the rule and effectively change the rules of the Senate by violating the rules of the Senate. Some people do not care about that. That is fine. If you care a lot about the future of this country, if you care a lot about democracy, if you care about making a democratic government work by compromise, you ought to care a lot about this.

It is arrogant. It reflects the feeling of a party that controls the White House, the House, and the Senate, that they must get their way on everything.

The reason a 60-vote requirement—that is, a filibuster—is useful to the workings of democracy is because it requires compromise. It requires Members to reach a threshold of 60 votes in the Senate, which requires you to reach across the aisle and talk to people of the other party. That is a good thing, not a bad thing. Compromise is a good thing. Bipartisanship is a good thing, not a bad thing. We have people now who look at it as something that is awful. We want to take a partisan group that has 51 votes and is muscle-bound—it is politics on steroids—and

ram it through the Congress and violate the rules in order to change the rules. It is not what this country should expect from the Congress.

Here is today's paper: "Filibuster Rule Change Opposed." It is interesting that there is a broad center of common sense. There always has been. Over two centuries, this country's political system moves one direction and then the other direction. But there is a strong magnetic pull back to the center. That magnetic pull comes from a reservoir of common sense all across this country of people who basically know what is the right thing. They know from their school days, from their civic organizations, they know from their everyday lives you do not violate the rules to change rules. We have certain rules. You do not violate rules to change rules. People know that inherently, and they also know the consequences of one-party rule that says it is our way and that is the only way and we refuse to compromise on anything.

For that reason, it is quite clear that two-thirds of the American people have that reservoir of common sense and are expressing it. I hope the majority party will listen. I especially hope Mr. Rove and the White House, who says there will be no compromise, will understand that compromise is what makes this Senate work.

In the McCullough book about John Adams, as I told my colleagues previously, he would write to Abigail—because John Adams was in Europe, representing our country in England and France as they tried to put this new country together—he would write to his wife, Abigail, and ask the question, plaintively: Who will be the leaders? Who will emerge as the leaders to help form this new country of ours? From where will the leadership come? And then in the next letter to Abigail, he would ask the question in different ways again: Who will be the leaders? Then he would say: It appears there is only us. There is me, there is George Washington, there is Thomas Jefferson, Ben Franklin, Mason, Madison.

In the rearview mirror of history, the only "us" is some of the greatest human talent that has ever been assembled that created quite a remarkable country. For 2 centuries, Americans have asked the same question: From where will the leadership come? How will the leadership emerge to steer this country and provide direction for this great democracy of ours? In almost every case, the American people have been surprised by those who step forward.

We have been enormously blessed by wonderful leaders—Republicans, Democrats, conservatives, liberals—leaders who step forward at the right time, at the right moment, to say: Here is where America needs to move. Here is how we need to improve and strengthen this great democracy of ours.

I ask again, and I think America asks again, with the backdrop of these questions, violating the Senate rules to

change Senate rules, taking apart the most successful program we have had in this country's history, the Social Security Program, the American people are asking, as they answer these polls: Where is the leadership? Where will the leadership come from to put this country on track?

We do have crisis. It is not Social Security. We have a bona fide crisis in health care. Prescription drug costs, health care costs are going straight up, and no one is doing anything about it. We have a crisis in jobs. We have the biggest trade deficit in human history, and we are choking on it. We have massive numbers of American jobs moving every single day overseas. It is an epidemic because American workers are being told by their multinational employers: You either compete with 30-cent labor from China or we are sorry, it is over for you. That job goes to China for 30 cents an hour, working 7 days a week, 12 to 14 hours a day, often kids. We have an epidemic in jobs and trade. We have a serious problem with the largest budget deficits in the history of this country. Yes, that is a crisis.

Last week, we passed an \$80 billion emergency supplemental bill to pay for the costs in Iraq and Afghanistan and not one penny was paid for. The administration that requested it did not suggest it be paid for. Congress did not suggest it be paid for. Just add it to the debt. Send the soldiers to Iraq and bring them back later and have them pay for the debt.

So, yes, we have some crises. Health care, jobs, trade deficit, fiscal policy, energy. Drive to the gas pumps and ask yourself whether there is a problem there. And then we have the Crown Prince of Saudi Arabia going to Texas yesterday to explain how much additional oil they will pump in order to help us with our energy problem. Sixty percent of our oil comes from off our shores, much of it from troubled parts of the world—Saudi Arabia, Iraq, Venezuela, Kuwait.

If, God forbid, tomorrow the pipeline for sending oil to this country from those troubled parts of the world were ruptured, this country's economy would be flat on its back. We are held hostage by oil from off our shores to the extent we have to have the Saudis come to Texas, to the ranch, to explain to us how they are going to help us solve our problems.

The fact is, we do have crises. The operative question is, Where is the leadership? Where is the leadership? Where will it come from to deal with these issues? No, I am not talking about the nuclear option. That is a specious approach, one that will injure this Senate and injure this country. I am not talking about taking Social Security apart—exactly the wrong thing. I am talking about the leadership for things that really matter to American families.

When people are in their homes, sitting at their tables, having supper,

they talk about issues such as: Do I have a good job? Does it pay well? Do I have job security? Do grandpa and grandma have access to good health care? How about the kids, do they have access to doctors when they need it? Are our kids going to a school we are proud of? Do we live in safe neighborhoods? Those are things that are operative in the midst of families' interests about this country and where they live.

I hope very much the majority party will understand what the American people are telling them: Lay off the nuclear option. Accept that 95-percent support for judges nominated by this President, which is a pretty good record. Ninety-five percent, that is a good record. Accept and understand there is an opposition party. They, too, have rights. And accept and understand that compromise is not a bad word. Compromise recognizes that this democracy works when you have bipartisanship, when you reach across the aisle. That is what the 60-vote margin requires us to do, in my judgment. And answer the question, Where is the leadership? Just answer that question, Where is the leadership on issues that matter to American families? My hope is, in the coming days we will see some of that leadership both here in the Congress and also from this administration.

Last, and most importantly, let's not ever hear again that those with whom you disagree are not people of faith. What a shameless thing to be doing, to suggest that your political opponents are people who are not people of faith. This country is better than that. Political debate and dialog can be better than that. And the American people expect and deserve better.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

#### JUDICIAL NOMINATIONS

Mr. BUNNING. Mr. President, I rise to talk about the broken confirmation process for Federal judges. The Senate faces an unprecedented crisis and is failing the Constitution and the American people.

For the first time in the Senate's history, a minority of Senators is twisting the rules of the Senate to block the will of the majority. They are taking for themselves a power granted only to the President of the United States, the power of nominating judges. Just as disturbing is the fact that the minority is also threatening to shut down the Senate and the people's business if the majority acts to restore Senate tradition and fulfill our constitutional responsibility.

Make no mistake about it, we will restore the Senate tradition of taking up-or-down votes on the President's nominees. Hopefully, the minority will support the nomination process the Senate has practiced for more than 200 years and end the filibuster of judicial nominations. But if the majority of the

Senate must act to restore that tradition, we will do so.

Like many Senators, I spend a lot of time in my home State. I meet with constituents, give speeches to civic groups, and tour manufacturing plants. I have heard a lot about the war in Iraq and Social Security. People talk about gas prices and the economy, education, and health care. But the topic I hear about the most is the importance of confirming judges.

Last November, election day came and the American people spoke. President Bush won reelection by receiving the most votes ever cast for a Presidential candidate. A majority of the American people clearly endorsed his policies and his leadership. So when this Congress convened, I had high hopes that the crisis of judicial nominations was behind us.

I hoped the Senators who obstructed the Senate's business over the past 2 years realized the errors of their ways. After all, they lost seats in the Senate, and their minority leader also was defeated in the last election. I hoped we could turn to voting on President Bush's nominations to the Federal bench. I hoped we would return to the Senate tradition of giving nominees an up-or-down vote.

But it did not take long to realize that was not going to be the case. The minority proudly boasts about their filibustering the President's nominees. And if the majority acts to restore Senate tradition, they say they are going to expand their obstructionism to the entire business of the Senate and shut down the Government.

In article II, section 2 of the Constitution, the President is given the power to nominate judges. And upon advice and consent of the Senate, those nominees shall be placed on the bench.

So the President alone has the power to pick judges. And the Senate has the responsibility to render its advice and consent. That leads to the question of what does "advice and consent" mean? Fortunately, I am not a lawyer or a constitutional scholar. But I can read. And the Framers were pretty clear when they spoke.

First, they said the Senate as a whole is to give its advice and consent. When the Constitution speaks of the Senate as a whole body, it means a majority of the body. The Supreme Court has even stated as much.

Second, the Framers were pretty clear when they required more than a majority to act. For example, they required a two-thirds vote to amend the Constitution. They required a two-thirds vote to convict and remove from office an impeached President or Federal official. But even more telling, in the very same sentence of the Constitution that gives the Senate the duty to render advice and consent on nominations, the Framers also required a two-thirds vote to approve a treaty.

Now, if Framers meant that a supermajority vote was required to approve

a nominee, they would have clearly stated so. The supermajority is something the Constitution rejects for nominees, but that is exactly what the minority is saying when they filibuster a nominee. The minority is attempting to shift the balance of power away from the executive to the legislative branch. That is nothing more than rewriting the Constitution and the separation of powers the Framers designed more than 200 years ago.

What the Constitution does give every Senator a right to do is to express his or her opinion on a nominee and on the nominee's qualifications. That right is to speak in support of or in opposition to, and vote for or against a nominee. But no Senator has the right to prevent the whole Senate from voting on judicial nominees if they are unable to convince enough Senators to join in their opposition.

It is the duty of Senators to speak their objections and then vote yes or no. They may make the ultimate statement against a nominee by voting against him or her, but they may not prevent the rest of the Senate from giving the same ultimate statement. They must not block an up-or-down vote on the nominee. In fact, for more than 200 years, this is how the Senate has considered nominations: with an up-or-down vote. Debate has taken place, and then the nominee has been given a vote.

Never before the 108th Congress was a nominee with majority support denied a vote on the Senate floor. Never before the last Congress had the rules of the Senate been twisted to prevent such a vote. Previous Senates had not even considered filibustering nominees as an option. The rules do not explicitly prohibit it because Senate tradition has always been to allow the nominee, no matter how controversial, an up-or-down vote.

I remember a situation in the 106th Congress. A group of Republicans opposed several of President Clinton's nominees to the Ninth Circuit Court of Appeals. Some Senators wanted to do everything within their power to stop those nominees from reaching the bench. But the majority leader at the time, Senator TRENT LOTT, said this was wrong and filed cloture himself to move the nominations forward. Cloture was invoked, and both nominees were confirmed, with many more Senators opposing the nominations than cloture.

Today, President Bush's nominees, who all have majority support, are being denied a vote by a partisan filibuster led by the Democratic Party leadership. That is unprecedented and must come to an end.

Just years ago, many Senators who now champion the filibuster of President Bush's nominees stated that judicial nominees should receive an up-or-down vote. Some even advocated abolishing the filibuster altogether. In fact, 19 members of the minority who are still serving today voted to abolish all filibusters. And now some of those Sen-

ators are the loudest voices in the Senate for filibustering President Bush's nominees.

Some of my colleagues across the aisle have spoken out against filibustering nominations. For example, the senior Senator from New York said, in 2000:

We are charged with voting on the nominees.

The junior Senator from California said, in 1997:

It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

The current minority whip said, in 1998:

If, after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down.

And the senior Senator from Massachusetts said, in 1998:

We should resolve these disagreements by voting on these nominees—yes or no.

It is amazing how some easily forget their own words. Or maybe I should say, conveniently and selectively forget their own words.

Well, Republicans did give President Clinton's nominees an up-or-down vote. And now the minority should allow the same courtesy to President Bush's nominees.

Something we have heard over and over from the minority is how many of President Bush's nominees they have allowed to be confirmed. Let's talk about that. The minority likes to talk about all nominations, but all nominations are not equal in their impact within the judiciary. District court judges, while they are very important, are not as powerful as circuit court judges. President Bush's nominees to the circuit court have the lowest confirmation rate since the Roosevelt administration at 69 percent. President Clinton's circuit court nominees were confirmed at a rate of 77 percent, far above President Bush.

And not all circuit courts are equal. The DC Circuit is the most important. For that court, only 33 percent of President Bush's nominees have been confirmed. President Clinton's nominees were confirmed 78 percent of the time. Those differences are staggering and support the fact that our judicial confirmation system is broken because of the obstruction tactics of the minority.

Something must be done to fix this crisis. The solution can be up to our colleagues on the other side of the aisle. The simplest, fastest, and most desirable option is for the minority to agree to drop its obstructionist ways and allow an up-or-down vote on all judicial nominees. Unfortunately, that does not appear likely to happen.

Last Congress, the current minority leader was asked how much time his side needed to present their case against a nominee. He replied that there was "not a number in the universe" that they would accept.

So where does that leave us? The only answer I could see is to restore Senate tradition through a change in the rules of the Senate. Article I, section 5 of the Constitution reads:

Each House may determine the Rules of its Proceedings . . .

That means a majority of the Senate can act to change the rules. It is the responsibility of the majority of Senators who want to fulfill the Senate's constitutional duty to take action necessary to do so. Majority action to set the rules of the Senate is not unprecedented, nor is it an assault on the body.

It cannot be an attack on the Senate to act to restore 200-plus years of Senate tradition and allow the Senate to fulfill its constitutional obligations. The senior member of the Senate Democratic caucus himself has taken such action. Not once, not twice, but four times in a 10-year period, the senior Senator from West Virginia changed the application of the Senate rules through a majority vote, and all four times his actions were aimed at limiting Senators' rights to debate or filibuster. Senate history is filled with other examples of majority action resulting in a change to the Senate rules to restrict the filibuster.

Let me make something very clear: We are not talking about changing the legislative filibuster. In fact, the only Senators I have heard advocating elimination of legislative filibusters are on the other side of the aisle. Not only does the legislative filibuster have a place in the Senate's tradition and history, it is fundamentally different from the filibuster of judicial nominees. Writing legislation is solely within the power of the legislative branch, and the Senate is empowered by the Constitution to set its own rules.

In the case of nominations, the nominating power is the power of the President, and the Senate can only accept or reject those nominees. The purpose of a legislative filibuster is to force changes in the legislation. However, no number of Senators can amend nominations; we can only accept or reject them. There is a place for the legislative filibuster within the Constitution, but there is not for the filibuster of judicial nominations.

So I urge my colleagues on the other side of the aisle to take a deep breath and step back from the line in the sand that they have drawn. Offer us a compromise that guarantees each nominee a vote. Give us a set of time for debate. Let's take a vote. This issue is too important for the majority of the Senate to ignore anymore. We cannot and will not let a minority of this body rewrite the Constitution and destroy the Senate's traditions. We must vote, and we will vote.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.



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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. At this time, morning business is closed.

#### TRANSPORTATION EQUITY ACT; A LEGACY FOR USERS—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of a bill (H.R. 3) to authorize funds for Federal aid highways, highway safety programs, and transit programs, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the two leaders or their designees.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I am glad this day is here and that we are proceeding. I certainly encourage my colleagues to vote for this motion to proceed. I have every expectation that it will pass overwhelmingly. It seems as though we are always in a lot of controversy when we talk about a highway reauthorization bill. It doesn't come along very often—about every 6 years. In my tenure here, I have been involved in four of them. This is the fourth, and it is very significant.

It is interesting that even though there is a lot of criticism, when it gets down to the vote, the vote is always overwhelming. I remind my colleagues that last year's bill was at \$318 billion—that was contract authority—and there was about \$303 billion in guaranteed spending. It passed by a margin of 76 to 21. It is something I know people are interested in, but there are always problems. First of all, let me just say how this is bipartisan. My good friend, the ranking member of the committee, Senator JEFFORDS—back when the Democrats were in the majority, he was chairman—and I always agreed on these highway issues. It is kind of interesting that those of us who are conservatives really believe this is something we are supposed to be doing here—building infrastructure, building roads. I am particularly concerned that our State Of Oklahoma has not had its fair share. We have been ranked as having the worst bridges in the Nation.

Anyway, we have the bill up. It is going to be essentially the same bill as we had last year. We passed it out of committee. There is always a problem. Let me mention this because it needs to come out in the beginning. There

are two different ways to have a highway program. One is to do it—and essentially the other body does it more this way—by taking projects and adding them, and you pass this, so you know what projects will be there for the next 6 years. If you do that, then the people who are on the inside track would have the best opportunity to have theirs, and there is always an accusation of there being pork and having special projects.

In the Senate, we do it the hard way. We have a formula. When you have a formula, it takes into consideration so many different aspects. There is not one State that could not stand and say, my State is not being treated fairly because of this factor or the other factor. If you look at the formula factors, you have so many factors, such as interstate lane miles, vehicle miles traveled on interstates, contributions to the highway trust fund, the lane miles, principal arteries, VMT on principal arteries, diesel fuel, donee status, donor status, and low-income States. Oklahoma is a low-income State. That should be a consideration. You have a low-population State, such as the one of Senator BAUCUS, who has been in the leadership working on this issue. They still have to be able to drive even though they don't have a large population from which to get the funds. You have the high-fatality-rate States. You have a factor for the guaranteed minimum growth and the guaranteed minimum rate of return for donor States.

Oklahoma has been a donor State for as long as I can remember. I remember when we had written into the law we would get back 75 percent of what we have paid in. Now it is up to 90.5 percent. If we passed the bill last year at that funding level, it would be 95 percent. It looks like with the figure that we passed out of the committee on the floor that we will be considering today is one that will allow us to get to 92 percent.

I know the formula is not perfect. There are a lot of donor States that think they are not getting enough. A lot of donee States think they are not getting enough. The unhappy donee States complain about the growth rate, but they are ignoring the high rate of return. The unhappy donor States are complaining about the rate of return, but they are ignoring the high growth rates. I have seen unhappy donors trying to rewrite formulas. You cannot do that in a vacuum. I am sympathetic with unhappy States; however, they cannot change the formula in a vacuum and not affect every other State. One of the States is trying to do that right now, and that would adversely affect the rest of the States. It is something that is difficult to deal with. When we get to conference, there are things we can do that we cannot do on the Senate floor. Perhaps some of these things will be done.

With that, I will yield to Senator JEFFORDS, the ranking member on our Environment and Public Works Committee, for his comments.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise today to add my voice to those calling for the approval of the motion to proceed that we will soon vote on.

For more than 3 years Congress has been trying to pass a highway bill. Today we are taking one more step in the long road toward passage of this important legislation.

Mr. President, our Nation needs this bill. We need this bill because it will make our roads and transit systems more efficient and safer.

This year it is estimated that 33 percent of America's major roads are in poor or mediocre condition; 27 percent of America's bridges are structurally deficient or functionally obsolete; 37 percent of America's major urban roads are congested; and 42,000 Americans will die in traffic accidents.

We need this bill because a fully funded bill is good for the economy.

The Department of Transportation says that for every \$1 billion of Federal spending on highway construction nationwide, 47,500 jobs are generated annually; and that every dollar invested in the Nation's highway system yields \$5.40 in economic benefits because of reduced delays, improved safety and reduced vehicle operating costs.

We need this bill to maintain our current highways and bridges than ever before, while demand for our roadways only increases.

The Federal Highway Administration says that 52 percent of highway funds spent by States went to preserving highway systems while just 19 percent went to building new roads and bridges.

At the same time, traffic congestion costs American motorists \$69.5 billion a year in wasted time and fuel costs and we spend an additional 3.5 billion hours a year stuck in traffic.

This bill isn't perfect. In fact, I think it needs additional funding. The White House has suggested an overall funding level for surface transportation of \$284 billion over 6 years.

This despite the President's own Transportation Department saying we need at least \$300 billion to simply maintain the status quo, and something well above that level to make progress on conditions and performance.

Thankfully, calls for increased funding have come from Republicans, Democrats and Independents; Members of the House and Senate, Governors and Mayors. But we will address the funding issue in due time.

Today we must get cloture on this bill and move forward.

Once again, I would like to thank the Senate leadership on both sides for their support of this bill.

I would also like to pay tribute to Chairman INHOFE and Senators BOND and BAUCUS for their support and cooperation in helping get us to where we are today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for his comments. At this time, I would like to recognize that we have four of the real star freshmen, the new Members of this body, on our committee. One, of course, is the presiding officer from Louisiana who made very clear to us the problem of beach erosion in the State of Louisiana. I appreciate his calling that to our attention. Then, of course, we have the new Senator from South Dakota, Mr. THUNE. Senator THUNE is also on the committee, and we yield to him at this time.

Mr. THUNE. Mr. President, I also rise today to speak in support of moving forward with debate on reauthorization of the Transportation Equity Act for the 21st Century. As many of my colleagues know, enactment of a long-term, robust Transportation bill is long overdue. I credit the distinguished chairman of the Environment and Public Works Committee, Senator INHOFE from Oklahoma, and the ranking member, Senator JEFFORDS, for their good work in bringing this to the floor.

It is important work that we are about to undertake. We are in the sixth extension of the current bill. We have another construction season that is going to be lost in the Northern States if we do not get a long-term bill put into place.

I appreciate very much the chairman's work in taking a very fair and evenhanded approach in how he has tried to distribute a certain amount of finite funding for this bill. As he mentioned in his remarks, this is a balance that must be struck between the large States and the small States. Frankly, passage of this legislation is critical not only to my home State, but to the Nation as a whole.

Since my service in the House of Representatives, I have long been a supporter of a strong federal role when it comes to transportation infrastructure funding. In fact, I believe the transportation infrastructure is one of the primary responsibilities of the federal government. After all, an adequate transportation infrastructure that is safe and affordable helps facilitate the movement of the goods and services on which our economy relies. Additionally, investing in our transportation infrastructure is a proven way to ease congestion and improve the safety of our highway system.

If we look at the economic impact of what we are talking about today, it is profound. For every \$1 billion invested in federal highway and transit spending, 47,500 jobs and job opportunities are created or sustained. For every \$1 billion in highway and transit expenditures, gross domestic product, GDP, will increase by \$1.75 billion, a multiplier effect of 1.75.

So this is important to our economy in terms of the jobs it will create, the growth it will bring about in our Nation's economy, and it is critical that this legislation, which has been held up

since the last Congress, move forward. It is one of the most important measures the House and Senate must resolve this year. And it is incredibly time sensitive as we look at the sixth extension we are operating with today and the need to get a permanent bill in place so this construction season will not be lost on many of those transportation departments in the Northern States.

I have heard regularly from officials from the South Dakota Department of Transportation who are concerned about the tremendous uncertainty they face as a result of not having a long-term bill. The business community, local officials, tribal leaders, and constituents across South Dakota continue to ask me why critical transportation projects are delayed from getting off the ground. I recognize that a handful of my colleagues from donor States are concerned that the bill, as reported by the Environment and Public Works Committee, does not go far enough to boost their overall rate of return. But the bill the Environment and Public Works Committee reported out last month, S. 732, does more to address the donor issue than the administration's reauthorization proposal or the bill as passed by the House of Representatives last month.

The clearest way to address the underlying concern that donor States have raised is to add more funding to this bill. In fact, I plan to support the amendment I understand Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS intend to offer because boosting this bill's overall funding level is the straightforward way to increase the minimum guarantee donor States seek without unfairly reducing the funding for donee States, such as South Dakota.

I look forward to working with my colleagues and with the chairmen and the ranking members from the various Senate committees responsible for this legislation.

As I said earlier, time is of the essence. It is important we work together to pass this bill so that conference negotiations between the House and the Senate can get underway, especially in light of the extension that is slated to expire on May 31.

I again commend the leadership of our committee, and the leadership on both sides in the Senate for their desire to bring this bill to the floor to ensure we are taking the steps necessary, when this current extension expires at the end of May, to have a new permanent bill in place that will address the critical infrastructure needs of our Nation as we move into the future. Many of the highways, interstates, and roads across this country are in poor or mediocre condition. Mr. President, 27 percent of our bridges are structurally deficient or functionally obsolete. It is important we get to work on this legislation in the Senate so we can get to conference with the House, resolve any differences that exist, and get a perma-

nent funding solution put in place for the States, the cities, the business community, and all the jobs and economic development that go with it.

Mr. President, I again urge my colleagues to support this motion to proceed to the legislation. I thank the chairman and the ranking member for their good work. I see Senator BOND, from Missouri, who has also been instrumental in crafting this legislation. I appreciate the leadership and work this committee has put in to get the bill to the floor. It is time we get it voted on and signed into law.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, if there is time during the course of this debate, even though we are operating under 1 hour equally divided, I want to go over, so everybody understands, why it is necessary to pass this bill instead of going with another extension because we do not get all the reforms we need without passing this bill.

I have to agree with the Senator from South Dakota that in order to get up to a higher figure in terms of the donor States—and there are a lot of donee States that are supporting us in this effort—it is necessary to have a more robust bill. I am sure we will have an opportunity to debate that and get to conference and see what we can work out.

The chairman of the Subcommittee on Transportation has been such a strong, hard worker. The Senator from Missouri has been there every step of the way and has been a part of this great bipartisan effort. So we yield to him at this time for whatever time he wishes to use.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, my sincere thanks to the chairman of the committee, Senator INHOFE; to the ranking member, Senator JEFFORDS; and my colleague, the ranking member on the subcommittee, Senator BAUCUS. This is a job well done under the constraints we face. We have worked long and hard to get to this point, and I urge my colleagues to vote in favor of proceeding.

The bill, S. 732, the Safe Accountable, Flexible, and Efficient Transportation Equity Act, is long overdue, 2 years past due. Our roads are deteriorating and safety is deteriorating unless and until we can get this bill up. My thanks to the leader for allowing us to call up the bill. It has a lot of moving parts. Every time you move one part, you make somebody slightly happy and several more very unhappy. But I believe it is a good step forward in attempting to meet our goal of completion prior to expiration of the current extension of the authorization on May 31. If we do not proceed to move to this debate, Senators should be aware we may not be able to pass a seventh extension, and our States may cease to let additional contracts, and thousands of jobs may be at stake.

We called up S. 1072 a little over a year ago, and final passage of that bill last year was 76 to 21. Today's bill, S. 732, is nearly identical to last year's bill, with one major problem: To comply with the President's budget request of \$284 billion, we have taken a proportional cut across the board of approximately 10.7 percent.

During conference last year, we were presented with \$299 billion in contract authority and \$284 billion in guaranteed spending. Today, our obligation limit and contract authority numbers are both the same, at \$284 billion. I do not think that will work.

Last year, \$284 billion was not sufficient to meet the transportation and safety needs in my State and, I think, many other States. I thought then, and continue to believe, more money is necessary. I understand the Finance Committee will be offering an amendment which we on the Environment and Public Works Committee will be supporting. During the budget resolution debate, my colleague from Missouri, Senator TALENT, along with the Senator from Michigan, Senator STABENOW, offered an amendment that any revenue that does not add to the deficit should be spent. It passed with more than 80 Senators supporting it. I think the Senate will have a similar position when we provide for additional revenues with defensible efforts.

The bill we are bringing to the floor has several major goals.

First, equity. While previous authorizations have talked about equity, our bill carefully balances the needs of the donor States, while also recognizing the needs of the donee States. There are many sections of the bill I am proud of supporting, such as the fact that all donor States will receive, at the minimum, a 92-percent rate of return by the end of the authorization.

My State of Missouri is a donor State which essentially means that for every dollar we spend on transportation, we receive less than a dollar in return. In 2004, it was 92 cents.

There are many States that fall under the \$1 rate of return—unfortunately, only about 20 of them, which means there were 30 votes for the donee States that got back more than a dollar, and that is where our problem was.

Last year, with the more robust funding, we were able to get all States up to 95 cents, but we were unable to achieve this rate of return as a result of going from \$318 billion down to \$284 billion.

Donor States that support additional revenue above \$284 billion can expect an increase in their rate of return to bring the bill more in line with last year's bill, but I do not think anybody is talking about \$318 billion anymore.

I worked diligently with Chairman INHOFE, Senator JEFFORDS, and Senator BAUCUS to ensure the bill remains as fair and equitable as possible among all States. I am aware some of the donor States, which we commonly refer to as superdonors—it is nice when you get to

select the epithet by which you are called. I wish I had thought of being called a superdonor or a deserving donor. Senator INHOFE and I come from deserving donor States. We will add Senator THUNE into the deserving donor States. But superdonors are concerned they hit the growth caps and do not achieve a 92-cent return right away. But the average rate of growth from the highway trust fund for all States is about 24.38 percent. The average rate of growth of Texas and Arizona is 31.79 percent. Senators from States that are growing below average are the ones who, it seems to me, should be complaining. We were unable to bring up donor States as early as we might have wished due to budget constraints, as well as balancing the needs of the donor States with the needs of the donee States.

For this reason, as most donor States grow, the donee States see a gradual decline to bring greater equity between the States. Nevertheless, all States will grow at not less than 10 percent over the previous bill, TEA-21. We are hopeful that with additional revenue, we will be able to raise that floor.

Safety is another key feature. We will go a long way toward saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements.

Safety in this authorization is, for the first time, being elevated to a core program. Our bill mirrors the administration's proposal, continuing our commitment to our motoring public's safety. This is accomplished by providing much needed funding to reduce highway injuries and fatalities, all without the use of mandates.

In my State of Missouri, we know inadequate roads not only lead to congestion, pollution, lack of economic growth, and they delay, deny, and derail economic opportunity, but they also kill people. We have averaged more than three deaths a day on Missouri highways and probably close to 40 percent, if not more, can be attributable to inadequate roads.

I have driven all the Federal highways and all the State highways and a lot of the county roads in Missouri, and I can tell you we have Federal highways which are two-lane highways which have traffic that everybody agrees should be on four lanes. What happens? We have rear-end collisions, passing on blind curves and hills, and we have fatalities.

My home State of Missouri, as many other donor States, has some of the worst roads in the Nation. We are among, unfortunately, that distinguished group that has the highest fatalities per million miles driven on the roads.

That is a distinction we do not like. Recent reports say we have the fifth worst roads in the Nation, with 65 percent of our major roads in fair to poor condition requiring immediate attention. We also rank fourth from the bottom in deficient bridges in the Nation.

Our committee has heard voluminous testimony from the administration that nearly 43,000 people were killed on our roads and highways last year alone. I am glad this bill reflects a continued commitment making not only investments in infrastructure but for the general safety and welfare of our constituents.

The bill addresses several environmental issues, such as easing the transition under new air quality standards. The conformity process is better aligned with air quality planning, as well as streamlining the project delivery process by providing the necessary tools to reduce or eliminate unnecessary delays during environmental reviews.

Another accomplishment of our package will ensure transportation projects are built more quickly because environmental stakeholders will be brought to the table sooner. Environmental issues will be raised earlier and the public will have better opportunities to shape projects.

Projects more sensitive to environmental concerns will move through a more structured environmental review process, more efficiently, with fewer delays. The bill also ensures that transportation projects will not make air worse in areas with poor air quality while giving local transportation planners more tools and elbow room to meet their Federal air quality responsibilities.

The bill will put transportation planning on a regular 4-year cycle, require air quality checks with projects large enough to be regionally significant, and reduce current barriers that local officials face in adopting projects that improve air quality.

The final goal is jobs. The Department of Transportation estimates that every \$1 billion in new Federal investment creates 47,500 jobs. To the Associated General Contractors, the same \$1 billion investment yields half of that in new orders from manufacturing and half of that spread through other sectors of the economy. Construction pay averages \$19 per hour, 23 percent higher than the private sector average.

This comprehensive package is a good step forward to creating jobs, but as a Governor of the State where we placed a high emphasis on economic development, it is not only the jobs that are created in construction, it is the jobs that are created by the existence of adequate, safe transportation that assures continued growth.

We have spent a lot of time in this body talking about how we get our economy to grow, how we create jobs. Passing this bill to create jobs now and facilitate the creation of jobs in the future is the best thing we can do. I am hopeful our colleagues in the Senate will agree to move this bill quickly in order to pass this legislation prior to the current May 31 expiration date.

I thank the Chair and I reserve the remainder of the time for the leader on this side.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first I thank the senior Senator from Missouri, Mr. BOND, for his hard work and for being so articulate. It is interesting that we have heard from Senator THUNE from South Dakota, a donee State, and Senator BOND from a donor State, and they are both equally enthusiastic about the fact that we have something that should work, and yet we know that any change in any part of a formula is going to have an effect on all the rest of the States. It does not happen in a vacuum.

I will yield the floor to Senator BOND to respond to a question. I ask the Senator, would he enlighten this body as to, according to HAWA, which two States in America have the worst bridges in terms of their state of disrepair?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Missouri will be permitted to answer the question.

Mr. BOND. Mr. President, there have been some new factors that have come out. In the interest of full disclosure, Missouri has moved up to fifth worst in roads and fourth worst in bridges. As I understand, Oklahoma still occupies a place of dishonor with even worse roads and bridges.

I was hoping those new studies would not come out that we are still right at the bottom. As two States that are in the heart of the Nation with major interstates crossing our States and traffic going east, west, southwest, and northeast through our States we are essential arteries for transportation for the Nation.

Mr. INHOFE. If the Senator will yield for another question, he is a former Governor of the State of Missouri. He knows a little bit about how the construction season goes. What kind of problems would he see—as Senator THUNE mentioned, we are in our sixth extension right now—if we were merely to extend this rather than to pass this bill, from a State perspective?

Mr. BOND. Well, the States are absolutely frustrated beyond all means that we have not been able to reauthorize the bill. Merely extending the bill does not enable us to go forward with major planning. The extensions keep existing projects in line and allow the Department of Transportation to continue to operate, but if we have another extension it means the money that this bill would make available will now not be made available until the construction season. For most of the United States, the construction season is spring, summer, and fall. Not a lot of work can be done in the winter.

So with the necessary contract times, 90 days to let contracts, if we do not make the May 31 deadline with new authorization, we are going to lose a tremendous amount of road construction necessary for economic development and safety.

Mr. INHOFE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, one of the comments was made by I believe it was Senator THUNE about the extensions. Let me make sure we all understand because this is very significant. We have been operating on extensions, and when we operate on extensions we cannot plan in advance. This bill has more provisions in it affecting safety, streamlining, and other factors than any bill of the four that I have been exposed to in reauthorization.

In the event we were to have to go ahead on another extension, there would be no chance of improvement on the donor State of return. In other words, donor State of return is going to stay at 90.5. It is not going to improve. If we were going on an extension as opposed to passing this new authorization bill, there would be no new safety core program to help the States respond to the thousands of deaths each year on our roadways.

I would say to the Senator from Vermont, this is a life-or-death type of a bill before us because more people are going to die if we do not pass the bill, if we just operate on extensions.

If we just do the extensions, there will be no real streamlining of environmental reviews, so critical projects will still be subject to avoidable delay. We see events that do not make any common sense in terms of how many miles can be paved per dollar. We have obstacles that are in the way. We have addressed those obstacles, and it has not been easy.

The Democrats and Republicans on this committee had to give and take. Frankly, there are some provisions in this bill I do not like too well, and I suggest to the Senator from Vermont there are a few he does not like, but one of the major things I think has to be done before we start any meaningful construction in America is to have these streamlining provisions. If we do not have a bill, if we go on with extensions, there will be no increased ability to use the innovative financing, thereby giving States more tools to advance. We are talking about public and private partnerships. We have been building roads the same way now for many years.

I have been notified that the time on our side has expired, and I ask unanimous consent that we be given an opportunity to share the minority time to whatever extent the Senator would like to give us.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. I yield to the chairman such time as he desires from the time on this side.

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

Mr. INHOFE. I say to the Senator from Vermont, with that very generous offer, as soon as he has someone coming and they want time, I will cease on this side so they can be heard.

Mr. JEFFORDS. That is fair.

Mr. INHOFE. The bill offers an increased ability to use innovative financing methods. Out in California and in Texas, they have been able to do some things where they have convinced us they get many more miles and much more local participation by the public-private partnership, by the TIFIA rule, and it is something that we would not be able to do nationwide if we do not get this bill and we just operate on an extension.

There are a lot of people who are very concerned about a provision in our bill that is called the Safe Routes to School. I know the Senator from Vermont has been interested in that. This is something where we would be talking about saving young lives. Right now, the provision is not there. So if we have an extension, it is merely an extension of TEA-21, the one that we have been operating under for the last 7 years.

If we are not able to pass this bill, then the States will continue to have uncertainty in planning, thereby delaying projects and negatively impacting jobs.

The Senator from Missouri commented that for each \$1 billion spent, it provides 47,000 new jobs. So this would easily be the biggest jobs bill probably in the history of America. But if we operate on an extension, there can be no planning. There is not going to be the construction.

The Senator from Missouri is from a northern State and so is the Senator from Vermont. In Oklahoma, though, our construction time is longer than it is in Vermont, and it is actually longer than it is in the State of Missouri. It is something that has to be considered because if we have those delays and they cannot plan in advance, we are not going to have the construction. We are not going to be able to correct these problems.

That is why I asked the question of the Senator from Missouri, who is a former Governor of the State. We need to have certainty in planning. I hear every day from Gary Ridley in our Department of Transportation in Oklahoma that we have things we need to do and we need to be planning right now. We can get so much more for each dollar if we do that, and I suggest that other States have the same situation.

If we do not have a new bill and we just operate on an extension, there is no new border program for border States to deal with NAFTA and other traffic. We hear a lot from the border States—California, Arizona, Texas, and Florida—that they like the borders and corridors program. We have a borders and corridors provision in this bill that will give consideration to the fact that through no fault of their own many border States have a lot of traffic that comes up through Mexico and other places that is all in conjunction with NAFTA.

I can recall 10 years ago when NAFTA was voted on I happened to have been the only member of the

Oklahoma delegation that voted against NAFTA. I think I was right and they were wrong, but nonetheless when we look at what we are able to do with the borders and corridors program, it is something that is very critical for those States.

My State of Oklahoma is also affected by that because those corridors come through the State of Oklahoma. If we do not have the bill, we just have an extension, there is going to be a delay in the establishment of the national commission to explore how to fund transportation in the future. As motor vehicles become more fuel efficient, a tax collection system based solely on gas consumption becomes less practical. Right now the greatest problem we have is the cost of fuel. We have been very much concerned about that. If our taxes were based on a percentage as opposed to a number of cents or dollars, then we would not have that problem. But in Oklahoma if we are paying \$2.20 a gallon for gas instead of what it was a short while ago, about \$1.40, then people are not going to drive as far. When they do not drive as far, that means the tax revenues are going to come down.

There is no reason we have to continue to do business as we have done business for the last 50, 60, 70 years and not come up with new and innovative ways to pay for our system.

In this bill we have a provision for a national commission to look at different transportation funding in the future. One of my complaints when we talk about the highway trust fund is about how we should or should not pay for it. Every time this body has a new idea to encourage people to use fuel-efficient automobiles, either hybrid or electric cars, that ends up with less gallons of gas produced. Yet those cars still damage the highways with the wear and tear that another car does. I have complained if we are going to have a policy, it should not be paid for on the backs of the highway trust fund.

Anyway, those are issues they can look at. They can look at new ways of financing roads and new partnerships. This commission will come together and will perform for us.

If we do not have a new bill and we have an extension, there will be no increased opportunity to address chokepoints and intermodal connectors. This is not simply a highway bill but an intermodal bill, talking about how the highways, railroads, and airlines come together. It is a complicated transportation system.

There was a time in the beginning during the Eisenhower administration when we wanted to have a national highway system. I will share with my friend from Vermont, when President Eisenhower, during the war, was a major, Major Eisenhower, he was the one who realized our traffic system, our road system, our network, was not a transportation issue as much as a national security issue. He was trying to move his troops around from one place

to another. So when he became President, one of the first things he wanted to do was set up the national transportation system. We have had it since that time. At that time we were looking at miles of paved roads in America. Now we are looking at the intermodal system that covers all transportation and brings all transportation together. But we won't be able to do that if we extend what we have today because those portions of the bill will not become law.

There are many other provisions we would lose if we do not pass a bill, if we only have an extension. The firewall protection of the highway trust fund would not be continued, thereby making the trust fund vulnerable to raids in order to pay for other programs.

One of the things we run into in Government I can relate to in the State of Oklahoma. In the State of Oklahoma we have had people, when you are looking the other way, come in and raid a trust fund. The impact aid is a good example. Impact aid was started way back in the 1950s. The idea was if Government comes along and takes the land off the tax rolls, you still have to educate those kids living there, so they are supposed to replenish that particular subdivision to the amount of money they lost in revenue. That was a good program. We all supported it.

In the 1960s, people realized there was a fund and no one was looking, so they took the money out of it. This has happened to other trust funds. This has happened to the highway trust fund. I see that as a moral issue.

In fact, when we had our bill out last year, we looked at it as if this is something we can afford to do because it was paid for almost entirely out of user taxes. Now, if you go to the pump and you pay a Federal tax on the gasoline you buy, you assume that will go to building roads and maintaining roads and people do not complain about it. I have never complained about it. I complain about every other tax, but I don't complain about the highway taxes because I know that is how we will pay for it. They have been diverting money out of the trust fund and putting it into other projects.

What we did in last year's bill, and it is in this year's bill also, is restore that so money will have to go to repairing roads that go into the highway system. If we do not pass this bill, it is not going to happen.

To reiterate, regarding the pending bill, 76 Senators voted for it last year. Very few changes have been made. We produced a solid project last year to go to conference with the House. I suggest that given a few changes we would have made, we would have been able to move it out and we would not be here today. This should have happened a year ago. This should not be happening now.

The bill managers are ready and willing to discuss Members' amendments. We want to work with you on your concerns. We hope you will come down and

offer amendments. We will have this vote in 9 minutes. How quickly time flies when you are having fun. When we have this vote, I anticipate it will be a successful vote and we will be able to get on the bill and start with amendments. When that happens, I certainly hope all those individuals who have said negative things about this bill—they didn't like part of the formula, they didn't think they were treated fairly, they thought they were bumping up to the caps for States—come down and offer amendments.

I don't think any of us in terms of Senator JEFFORDS, myself, Senator BAUCUS, and Senator BOND, are going to complain. We may not like the amendments, but we want to have the amendments offered, if for no other reason than it is important so people realize you cannot make one change in a bill without affecting everyone else. I know formulas are different.

It would be easier if we had done the easy thing. That is, Senator JEFFORDS and I could go to 60 Members of this 100-Member body and make them sweetheart deals, give them what they wanted to get their vote, buy their votes, get 60 votes, and tell the rest of them, it is your problem. And we would have a bill today. That is not how we want to do business. We feel we can do it being fair to our colleagues and do it on the basis of a formula.

We had Members who were going to be heard on the motion to proceed and they have not arrived. 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. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the chairman and the ranking member for their work on this issue. I urge my colleagues to support invoking cloture on this important legislation.

I had a meeting yesterday morning with highway contractors in my State. They once again impressed upon me the urgency of passing new highway legislation.

In my part of the country—I represent North Dakota—our construction season is a short one. We urgently need action. There are contracts that are being held up, actions that need to be taken to improve the road network in my State that are being held because there is no new highway legislation passed.

We keep passing extenders. But that does not make adjustments for the increased needs across the country. We know much of our bridge system is deficient and in serious need of repair. We know many of the roads in our country need repair. New highways need to be constructed. Much of that activity will not occur unless new highway legislation passes the Congress.

I thank the chairman and the ranking member for the extraordinary efforts they have made to advance this legislation. We are being held up here because some are unhappy, some are not getting all they would like to get. That is pretty much the norm around here. None of us get quite what we would like. I would like much more for my State. But I know the reality we confront. I know the urgency of the need to act.

I ask my colleagues, please, let's invoke cloture. Let's proceed. We will still have opportunities to amend this bill. Members can come before the Senate and offer amendments to change this legislation. They can either prevail or lose, but they will have had their chance. I hope my colleagues will support the move to invoke cloture on this legislation so we can proceed, so the American people can know the important business of highway construction, highway repair, bridge construction, and bridge repair can move forward.

Mr. JEFFORDS. Mr. President, I thank the Senator for his good words. I hope the Senators viewing this will join so we can expedite passage of this bill.

Mr. CONRAD. Mr. President, again I thank the ranking member, Senator JEFFORDS, who has put so much time and effort into this legislation so that all at the table are fairly represented. I thank the chairman, as well. The chairman has strived valiantly over an extended period of time. I remember last year as we moved, we hoped, toward conclusion, our House colleagues had a different point of view than the Senate. I thank the chairman and ranking member for their exceptional efforts.

Now we have a chance to do it, to move forward. We need this cloture vote to proceed.

I yield the floor.

Mr. INHOFE. I thank the Senator from North Dakota. It is not as great a problem in Oklahoma as the problem in North Dakota because your construction season is shorter than ours. Right now one of our major concerns is that we can get in there and get the contracts in a timely fashion so we can get under construction and do the work we are supposed to be doing.

Also, before the Senator from North Dakota came in, we commented this is somewhat of a life-and-death situation. Last year, nearly 43,000 people died on our Nation's highways. This represents the single greatest cause of accidental death in Americans ages 2 to 33.

The core safety programs will be corrected. According to the Department of Transportation, time in congestion increased from 31.7 percent in 1992 to 33 percent in 2000. We had several discussions yesterday about the cost of fuel and the fact that if you have all this congestion—certainly we know what this is in Washington, DC—the cars are out there idling, burning fuel, not getting anywhere. We need to get this country moving.

I appreciate the comments of the Senator from North Dakota.

We are at the time designated to have the vote. This could be one of the maybe two or three most significant votes we have this year. It will allow us to do all that we have been talking about for the last hour. It is rather refreshing during this time we did not have anyone coming down and opposing this motion to proceed.

The Senator from North Dakota is exactly right. We want to encourage people who have a problem to come down. Maybe we can make them better. We want to consider amendments. We want to get this done.

The PRESIDING OFFICER. Without objection, all time is yielded back.

CLOTURE MOTION

Under the previous order, the Senate will proceed to a vote on the motion to invoke cloture on the motion to proceed to H.R. 3, which the clerk will report.

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 the motion to proceed to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, John Warner, Lindsey Graham, Craig Thomas, Mike DeWine, Richard Burr, Susan Collins, Johnny Isakson, James Inhofe, Gordon Smith, Pete Domenici, Thad Cochran, John Thune, Orrin Hatch, Chuck Grassley, David Vitter, Mitch McConnell.

The PRESIDING OFFICER. Under unanimous consent, the mandatory quorum has been waived. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 3, the Transportation Equity Act: A Legacy For Users, 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 yeas and nays resulted—yeas 94, nays 6, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—94

- |           |           |             |
|-----------|-----------|-------------|
| Akaka     | Craig     | Kohl        |
| Alexander | Crapo     | Landrieu    |
| Allard    | Dayton    | Lautenberg  |
| Allen     | DeMint    | Leahy       |
| Baucus    | DeWine    | Levin       |
| Bayh      | Dodd      | Lieberman   |
| Bennett   | Dole      | Lincoln     |
| Biden     | Domenici  | Lott        |
| Bingaman  | Dorgan    | Lugar       |
| Bond      | Durbin    | Martinez    |
| Boxer     | Ensign    | McConnell   |
| Brownback | Enzi      | Mikulski    |
| Bunning   | Feingold  | Murkowski   |
| Burns     | Feinstein | Murray      |
| Burr      | Frist     | Nelson (FL) |
| Byrd      | Graham    | Nelson (NE) |
| Cantwell  | Grassley  | Obama       |
| Carper    | Hagel     | Pryor       |
| Chafee    | Harkin    | Reed        |
| Chambliss | Hatch     | Reid        |
| Clinton   | Inhofe    | Roberts     |
| Coburn    | Inouye    | Rockefeller |
| Cochran   | Isakson   | Salazar     |
| Coleman   | Jeffords  | Santorum    |
| Collins   | Johnson   | Sarbanes    |
| Conrad    | Kennedy   | Schumer     |
| Corzine   | Kerry     | Sessions    |

- |          |         |           |
|----------|---------|-----------|
| Shelby   | Stevens | Voivovich |
| Smith    | Talent  | Warner    |
| Snowe    | Thomas  | Wyden     |
| Specter  | Thune   |           |
| Stabenow | Vitter  |           |

NAYS—6

- |        |           |        |
|--------|-----------|--------|
| Cornyn | Hutchison | McCain |
| Gregg  | Kyl       | Sununu |

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak for 7 minutes on the topic of the 15th anniversary of the Hubble telescope.

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

FIFTEENTH ANNIVERSARY OF THE HUBBLE SPACE TELESCOPE

Ms. MIKULSKI. Mr. President, this week marks the 15th anniversary of the launch of the Hubble space telescope. As we watched Hubble lift off 15 years ago, we had great hopes for the Hubble and great hopes for science. Guess what. We were not disappointed.

Hubble ushered in a new era of astronomy and science. Hubble has exceeded all expectations. It is the greatest tool for studying the universe since Galileo himself invented the telescope. Because of the Hubble, we are now living in what astronomers call the "golden age" of astronomy and physics. How incredible, how spectacular. It has been America's gift to the world. It has been one of the greatest acts of public diplomacy in history. Hubble has become a symbol of America's generosity of spirit. Whatever the Hubble sees in the world, it downloads for the rest of the world to have access. Hubble even has its own Web site. It gets e-mails from people all over the world. Some of them from the children are the most touching. There are e-mails that say: Dear Mr. Hubble, did you see God today? Have you met an angel? Is there another universe? What does it look like? They actually talk to Hubble, and it has inspired their curiosity and their desire to engage in science.

It is not surprising; just look at what it has accomplished.

The Hubble telescope has accounted for 35 percent of all of NASA's discoveries for the past 30 years. It has seen farther and sharper than any telescope in history. It has observed more than 14,000 objects in space. It has been the No. 1 producer of science for NASA over the past 10 years. Over 2,600 scientific papers have been written on the Hubble results. It has dramatically improved our understanding of the atmosphere of planets; the size of galaxies; the birth, life, and death of stars; the existence of black holes; the age of the universe and how the universe expands.

I have a photograph in my office of a swirling galaxy. They call it the "eye of God" because you literally see those spectacular pictures, and you feel in this one picture that God himself is staring down at us from the universe.

Hubble has rewritten the science textbooks almost every year. It has exceeded our wildest expectations. But it didn't start that way. Fifteen years ago, I was chairing the subcommittee that finances NASA, and we were so excited when Hubble took off. But no sooner was it in space when we saw that the Hubble did not work. Something was wrong with its mirror. Hubble could not see. I immediately had a hearing and said, oh my gosh, Hubble has a cataract. It needs space surgery. It needs a space contact lens. Well, I never saw myself as a space ophthalmologist, but, quite frankly, working with my dear friend from the other side of the aisle, Senator Jake Garn, we took a risk to finance the fix for Hubble.

Well, this country and this world, this big planet, was not disappointed. We took the risk because we believed in Hubble's potential. We believed in the engineers and the scientists at NASA to know how to fix it. We believed in our astronauts, that they could go to the Hubble and fix it and return safely to Earth. Thanks to those astronauts and engineers, Hubble was saved. We did fix it with a contact lens that has lasted now for many years. We have had to go back to space and give it new batteries. We have also had to give it new gyroscopes so it doesn't vibrate in space. We even improved its lens. Each year it gets better and better. From the brink of failure to extraordinary success, this has been the story of Hubble.

Now we are once again going to have to come to the rescue of Hubble. Last year, the NASA Administrator announced that he was terminating the final servicing mission to give Hubble new batteries and extend its life. The Administrator rejected it, saying that the Hubble would shut down in 4 years when its battery runs out. The reason he gave was astronaut safety. I was troubled by that because astronaut safety has been my No. 1 priority as an appropriator for the space program.

However, I was uncertain about that decision and, like any good scientist, I asked for a second opinion. First, I asked Admiral Gehman, who had done the study of what went wrong with Columbia, for his opinion. He said go to the National Academy of Sciences. I did that, and we found a study that concluded that a servicing mission was no more risky than going back to the space station.

Once again, Mr. President, our shuttle is going to start flying again, and our hearts and prayers will go with Colonel Collins as she takes astronauts back into space and, God willing and with the help of our engineers, returns to Earth safely.

The next mission needs to go up and fix the Hubble. I believe the American people want it. We have the will. Now we have to find the wallet. President George Bush, with poor advice from the NASA Administrator, canceled it out of the budget. I want the President to

look at those NASA pictures. I want him to know what NASA has meant to the world and to America in space. I am going to work with him, on a bipartisan basis, to find the money to keep Hubble flying and seeing the universe. Who knows, maybe we will meet an angel and make some interesting new friends.

Mr. President, I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:25 p.m., recessed and, at 2:16 p.m., reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Ohio, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### TRANSPORTATION EQUITY ACT; A LEGACY FOR USERS—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise today to talk about simple fairness and equity in this highway bill. I commend the chairman and managers of the bill for working hard to get it to the floor. Now that it is here, I have some serious concerns with the bill, as reported, that I would like to share with my colleagues.

This bill is not fair to the States called donor States that send more of their Federal gas tax dollar and get less of it in return. Those are called donor States. We donor States—and Florida is one of them—are, once again, being cheated out of our fair share of highway dollars. Florida and roughly 20 other donor States deserve true equity, not simply what the donee States think we should be happy with. They send in a dollar of gas tax but they get more than a dollar in return. Our States, called the donor States, send in a dollar of gas tax money, and we receive less than a dollar of gas tax money in return.

In the case of Florida over the years, it has been down in the seventies. Presently—although it is scored at 90 cents—return on the dollar, in reality, when all the formulas are plugged in, is more like 87 cents. So in Florida we send a dollar of gas tax money to Washington, and we get only 87 cents of that dollar back. That is not fair.

The argument I am making is not a new argument. These are arguments that the ones who send in a dollar and get back less of their gas tax money

are pitted against the donee States. Approximately 30 of the donee States get back more than a dollar of the gas tax money. So there are 20 States that get less and approximately 30 States that get more. I am tired of hearing we should be happy with what we get. I am not happy with the formula on the redistribution of the gas tax money in the highway bill.

Last year's bill that we passed in the Senate got us a lot further toward equity than this year's bill. I was disappointed, even in that bill, because although we had a target to get us from 90 percent, which is really 87 percent, return on our gas tax dollar, all the way up to 95 percent, we did not get that 95 cents back on the dollar until the very last year of the 6-year authorization of the highway bill.

Florida is in the category with other States such as Arizona, California, and Texas. We were not going to get 90 cents on the dollar, boosted to 95 cents on the dollar, until the very last of 6 years in the bill. Those States that I just mentioned, mine included, are named superdonor States. In reality, it means we are the last in line to get our fair share.

As I look back at last year's bill, I yearn for it because that is not what this bill does. This bill gets the States only to 92 cents on the dollar, and large States such as Florida, California, Texas, and Arizona only get there, again, at the end of the 6-year authorization on the highway bill.

So what am I forced to look at? I am looking at we were getting it up to 95 cents on the dollar last year, and under this bill we are only getting it up to 92 cents on the dollar. Well, this is unacceptable. There is clearly a push from both sides of the aisle to add more money to the bill. I support more money in the bill. What we passed in the Senate last year was \$318 billion for highway construction authorized over a 6-year period. What is in this bill is \$284 billion over a 6-year period. If we want to add more money to the bill for highways, I am certainly for that, but I support more money if there is an increase in the rate of the return for States that are giving more money than what they are getting in return.

It simply does my State and these other States no good to grow a pot of money if we are not getting our fair share of the pot.

I have been told by the 30 donee States—remember, those are the States that get more on their dollar of gas tax than they put in—I have been told by those States to look at how much money, in actual dollars, Florida will receive and how much Florida will grow in an overall percentage from the last authorization bill.

I am happy to know Florida, under the chairman's proposal, gets more dollars in this bill than it did in the last authorization, but Florida should be getting more money this time around because it is putting more money in. The number that is important, and the

number that only donor States want to focus on, is the rate of return on our gas tax dollars. What percentage of Florida taxpayer dollars are actually being returned to Florida to build up our infrastructure, our highways, our bridges, and our transit? I asked that question not only for my State but for 20 other States that are not getting their fair share.

Why is this particularly sensitive to me? Look at all the folks that come to Florida and use our roads. The Orlando area is the No. 1 tourist destination in the world. We have a \$50 billion-a-year tourism industry that, in large part, is as a result of our pristine and clear waters on the beaches. People go by car.

What other reasons? Florida is now one of the major growth States also because we are a destination during the twilight years of retirement. That means not only is our population growing at a rapid rate—1,000 people a day net growth in Florida—but on top of that, we get 80 million tourists a year, and they are all using those Florida roads. We desperately need those roads expanded and improved. I can take anyone to parts of Florida and show that if you think traffic jams are big in Washington, DC, they cannot hold a candle to some of the traffic jams in Florida. States such as mine are the States with the greatest need and we are the States that continue to get the least back on our highway tax dollars. Our populations are increasing by leaps and bounds, yet our highway rate of return is staying relatively the same in order to pay for the other States to invest in their roads, and those are States that are not growing like Florida, Texas, California, Arizona, and 15 other states. Florida is the third fastest growing State behind Nevada and Arizona. We will grow by 80 percent in the next 25 years, becoming the third largest State in the country behind California and Texas. Florida will bump New York into fourth place by 2011.

We have to have help on our highways. We need, but we also deserve, our fair share. States such as mine have, for the last half a century, given more than our share of highway funds. The interstate system is complete now. It has been for some time. This formula has been operating for over 50 years. It is past time that donor States get justice and equity and fair shares. We deserve to get 95 cents return on each one of our highway dollars.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, in a moment we are going to make a motion to

substitute H.R. 3 so we will be considering the Senate-passed bill as it was passed out of our committee on to the floor. I think it is appropriate to make a couple of comments—and, of course, invite Senator JEFFORDS to also comment if he wants to—on the time we have taken on this bill.

We have worked on this bill for some 2½ years. It has been bipartisan all the way, all of last year and this year. I think it is something that is a product we can be very proud of. It has provisions in it that if we do not pass will not be considered. If we are on another extension, we will not have the safety provisions. We will not have the streamlining provisions that will help us build more roads per dollar.

We are prepared now to proceed. I understand there is no further debate on the pending motion.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the motion to proceed is agreed to.

The motion was agreed to.

#### TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal aid for highways, highway safety programs, and transit programs, and for other purposes.

#### AMENDMENT NO. 567

(Purpose: To provide a complete substitute)

Mr. INHOFE. I send a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 567.

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

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

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. INHOFE. Mr. President, we are now on the substitute. I understand there are some amendments that are either on their way down or are going to be presented at this time. If not, we will talk a little bit about the bill and where we are today. We are prepared now to go ahead and accept amendments. We are going to ask Members to bring their amendments to the desk. The majority and minority leaders have agreed to give us the floor time to consider these amendments. The sooner we get the amendments, the sooner we can get this passed and sent to conference. I would think the minority leader would agree with me that this is one of the three most significant bills of the year.

I yield the floor.

Mr. REID. I would like to give a short speech, if the distinguished manager of the bill would not mind.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I say to my friend, I am not on the committee now, but I have been on the committee during a number of these highway bills. This highway bill is one of the most important pieces of legislation that the Senate considers. One reason it is such a good exercise is that it forces bipartisanship. It is extremely important legislation. This is one issue on which Democrats and Republicans work together. I certainly wish my friend well. It is an important bill, as he and I know. We worked so hard last year to get it done, and for a lot of reasons it did not happen, but the Senator from Oklahoma has my good wishes on this most important bill for not only Nevada but the country.

#### JUDICIAL NOMINATIONS

For the last several months, the Senate has operated under a cloud, a nuclear cloud. I would like to give just a brief history for those who are here today. Filibusters have been part of our history from the very beginning of our Republic. In the early years of our country, there were a number of filibusters, but there was no way to stop them. As a result of that, because of the filibuster, a lot of things were not accomplished that Senators wanted to accomplish. In fact, a number of very important Cabinet nominations did not happen because of the filibuster, and a number of judicial appointments in the early years of this Republic simply did not go anywhere because of the filibuster.

It was in 1917 that this body decided to change the rule so that there could be a way of ending filibusters. They decided that two-thirds of the Senators voting could stop a filibuster. Then, during the height of the civil rights movement in this country, the Senate decided to lower that threshold to 60, the way it has been since then.

We, of course, had filibusters of judges prior to 1917. We have had filibusters of judges since then. In recent years, we have had the person who was nominated to be Chief Justice of the Supreme Court, Abe Fortas, who was a member of the Court, filibustered. He was not able to go forward. There are a number of other people who were nominated to be judges, specifically circuit court judges, and there were filibusters conducted by my friends, the Republicans. There were efforts made to stop those with cloture motions. The two that come to my mind are two judges from California.

I worked very hard on one of them—a man by the name of Richard Paez. The other was a woman by the name of Marsha Berzon. A cloture motion was filed, and cloture was granted as a result of 60 Senators voting for cloture.

My friend, the distinguished Republican leader, knows filibusters have been conducted because he voted against cloture. While he was a Member of the Senate, he voted against cloture on a circuit court judge. So for



people to say there has never been a filibuster of a judge is simply wrong. Twenty-five percent of all Supreme Court Justices have been rejected—not always by filibuster, but for various reasons. More than half the filibusters have been conducted by Republican Senators. I do not think that was unconstitutional.

During the tenure of this President, we have had 215 requests to have his nominations approved. We have approved 205 of them. We have turned down 10. That is a 95- to 97-percent confirmation rate, 10 rejected judges, 7 of whom are currently before the Senate. This does not seem reason enough for me, and I think for most people, to think that longstanding rules in the Senate should be changed.

Remember, everyone has to understand that to change the rules as anticipated with the so-called nuclear option, the majority would have to break the rules. The only way a rule change can be stopped when people want to talk—and that is, in effect, what is being done—is to change the rule. If somebody wants to talk, there must be the votes to stop that. That is not what the majority is talking about doing. They are talking about doing something illegal. They are talking about breaking the rules to change the rules, and that is not appropriate.

That is not fair, and it is not right.

The claim that there have been no filibusters, as I indicated, ignores history, including recent history. Throughout the years, many judicial nominees have been denied up-or-down votes. As we know, during the Clinton administration, 69 judges never even got a hearing before the Judiciary Committee. They were dumped into this big dark hole and never saw the light of day. Some of them waited for a very long time, including Richard Paez, who waited for over 4 years. Some of the loudest proponents of the so-called nuclear option opposed cloture on the nominations of President Clinton's nominees.

America is paying attention to this hypocrisy. Citizens are alarmed about what the Republican majority is planning to do. According to a poll that was released yesterday, Americans oppose this—Democrats, Republicans, Independents—by a 2-to-1 margin. They oppose changing the rules to make it easier for the President to stack the courts with radical judges. The American people, in effect, reject the nuclear option because they see it for what it is—an abuse of power, arrogance of power. Lord Acton said power corrupts, and absolute power corrupts absolutely.

The American people need to understand what is going on here in our Congress. Across the way in the House of Representatives, the majority leader was censored three times within 1 year. He will not be censored again because they changed the rules in the middle of the game. That is what is going on. The rules are being changed in the mid-

dle of the game. They are breaking the rules to change the rules.

Regardless of one's political affiliation, Americans understand this is a partisan political grab. Nearly half the Republicans polled opposed any rules changes, joining 8 in 10 Democrats and 7 Independents.

Over the last several months, I have talked about a solution. We need to step forward and try to work something out. Before I came here, I tried cases before juries. I had more than 100 jury trials. Every time I had a jury trial was a failure. It was a failure because it indicated the participants could not work things out on their own. That is how I feel about this. We should be able to work this out. We should be able to work it out. My door has always been open to responsible Republicans who do not want the Senate to head down this unproductive path.

I wrote to the majority leader on March 15 and expressed a willingness to find a way out of this predicament we find ourselves in, to find a solution. My friend, the distinguished majority leader, replied 2 days later he would propose a compromise for resolving this issue. We are still waiting on that proposal.

Now, it appears maybe—and I hope this is untrue—that Republican leaders in the Senate do not want a compromise. Senator FRIST and I do not do our negotiations in public, but he and I had a nice conversation about a number of issues about 12:15 today. One of the issues we talked about was my proposal to try to resolve this. I thought it was a very constructive meeting. I walked into a conference at quarter to 1, and I was told he issued a statement that there would be no compromise. I don't believe that. The wires are crossed here somewhere. I hope that, in fact, is the case.

This is something that needs to be resolved. One of my concerns involves Karl Rove. I know Karl Rove was up here today. Karl Rove is world famous. He is from Nevada. I like Karl Rove. He has not been elected either to the executive branch of Government or to the legislative branch of Government. I believe in the separation of powers. I believe this legislative branch of Government is as strong as and as important as the executive branch and the judicial branch of Government. We should conduct our business, especially when it deals with procedures and rules of the Senate, without interference from the White House. In fact, I thought this is where we were headed.

I spoke to the President at the White House. My distinguished friend, the assistant majority leader, was there. I asked the President if he would step into this issue dealing with the nuclear option and help us resolve this, because we have lots of important legislative issues to accomplish.

The President, without any hesitation, said to me, in effect, that this is a legislative matter. He said he was not going to get involved in it at all.

I was dumbfounded to find that the Vice President, a few days later, was giving a speech—and I know under his constitutional role he has certain obligations, one of which is if we are in a tie, he breaks the tie; I have no qualms about his having the ability to do that—he gave a long speech on the history of the filibuster and how we were stopping this constitutional option. Frank Luntz gave nuclear option a new name. And bang, today we get Karl Rove telling everybody that there will be no compromise, saying that we want all of our judges, plus Bolton.

These are not positions that allow for compromise. I want to work this out. These are not positions that allow the Senate to proceed with the work of the American people. These are positions that force a confrontation. I don't think we need that. These are positions that divert attention from the real problems facing America today—gas prices, nearly \$2.75 a gallon in Nevada. That is higher than in California. We have poor schools, problems with schools all over America. Minnesota is no different from Nevada. They have problems in their schools. They have inadequate health care coverage.

Again, 95 percent of the President's nominees have been confirmed. The majority leader has said he is willing to break the rules, to change the rules. He will be gone in 15 months and we will still be around. It would not be the right thing to do.

Ultimately, this is about removing the last check in Washington against complete abuse of power, the right to extended debate.

Ronald Reagan sent people to the Supreme Court. Richard Nixon sent people to the Supreme Court. There are still two men there who were nominated by Nixon. We have people whom George Bush No. 1 sent here. Seven of the nine members of the U.S. Supreme Court are Republican appointees. Yet there have been attacks on these people, vile things said about David Souter, vile things said about Justice Kennedy, and others.

The radical right, not representing the mainstream Republicans in this country, wants a different kind of Supreme Court, a different kind of judge—maybe that is the case—one who would roll back equality, liberty, and the rights of all Americans. I don't think that is why President Reagan put his appointees on the Supreme Court. I don't think that is why President Bush No. 1 put his appointees on the Supreme Court.

I think those who were elected to this body, the people who sent us here—not Karl Rove, not James Dobson, and not radical elements of our society—should work out a solution.

There is a way to avoid this nuclear shutdown. I have outlined a proposal for my collective colleagues in some detail in an effort to protect an independent judiciary and to preserve the Founding Fathers' vision of the Senate. I am not going to go into the details of my conversations with my

friend Senator FRIST and other Members of the majority. I spoke in private. But I want to talk about why compromise is necessary.

We stand united against the constitutional or nuclear option, all 45 of us. We have a responsibility to protect checks and balances, not violate them; to protect the separation of power. My offer protects those checks and balances. My offer renews procedures to allow home State Senators to have a say in who sits on the Federal courts in their States. The procedures encourage consultation and will lead to the nomination of consensus judges, judges who will be confirmed unanimously in most cases.

As I indicated on more than one occasion this afternoon, we have approved 205 judges and turned down 10. The 10 were denied confirmation for a lot of reasons. I will not detail that here. We need to ensure the Senate remains as a check on the President's power, especially with respect to the Supreme Court. We were willing to compromise on this, which is hard to do. I believe my proposal strikes the right balance. I hope so because I tried. It protects our democracy and the independence of our Federal courts. The separation of powers doctrine means so much to our country. It protects the American people, lets us do our business, and can break partisan stalemates that are unnecessarily divisive. I emphasize that any potential compromise is of course contingent on a commitment that the nuclear option will not be exercised in this Congress or any Congress. It is very important to understand this is not all done in a vacuum.

What I have spoken to my Republican counterparts about is an effort to work our way through this. I always felt that a good settlement in all those cases I had, the best settlement was when both parties walked out saying, I am happy. We cannot make both parties happy. We will have to compromise. We will have to be statesmen and come up with something the American people will accept.

I recognize the same poll I talked about here, how people feel about the nuclear option—I know, reading these polls, that the present numbers are tumbling downward. I know that because of what has gone on, for a lot of different reasons, numbers for the Senate Republicans are falling. But the general view of the Congress is not that good.

I think it would be a good moment for the American people if Senator FRIST and I could walk out before the American people and say that we have been able to work out our differences. I think the American people would like that. If we do not do that, it is going to be a difficult situation, as I have indicated in great detail. This is not a Newt Gingrich threat. We are not going to shut down the Government. But we are going to work on a number of issues that we feel are important to the

American people. In fact, our hours will probably be longer, rather than shorter.

Mr. President, I appreciate everyone's courtesy, and I especially thank my friend from Oklahoma.

If I could say this: During the Clinton years, and during the first 4 years of President Bush, we had a workhorse in the Judiciary Committee. He was chairman; he was ranking member; he was chairman. It went back and forth. He has taken a lot of spears for a lot of different people, standing up for what he believes is right for this country. So I want the record to reflect how much I appreciate the support and the advice and counsel that I have received from Senator PAT LEAHY during the years I have been in the Senate, but particularly during the last 5 months.

The PRESIDING OFFICER. The majority whip.

Mr. LEAHY. Mr. President, will the Senator from Kentucky, inasmuch as I have been mentioned, allow me 2 minutes to refer to what the distinguished leader has been saying?

Mr. MCCONNELL. Mr. President, is the Senator from Vermont asking for 2 minutes?

Mr. LEAHY. Yes.

Mr. President, one, I compliment the Senator from Nevada. I appreciate the kind words he has said about me. I know how hard he has worked to work out this issue. I have been in numerous meetings with him. He has met with both me and the chairman of the committee. We have discussed ways we could work this out. Frankly, I have been in some of those same discussions with my friends on the other side of the aisle. All of us agree this is a reasonable way to work it out.

We should not be talking about judges under the question of nuclear options or religious tests or all the other red herrings that have been out here. It loses sight of what the Constitution is. It speaks of advice and consent. Both the President of the United States and the Senate have a role.

This begins at the other end of Pennsylvania Avenue. The President cannot just simply say: I will send and you will consent. It says advice and consent. I think what the distinguished Senator from Nevada has said is something I have heard Republican Senators say over and over again in my 30 years here.

Let us work this out. And then let's work with the White House so we have both advice and consent. That is how we got 205 judges. That is why 95 percent of President Bush's judges have been confirmed. That is the way we can work on the remaining ones.

So I compliment the Senator from Nevada. I hope his discussions with the Senator from Tennessee work out. I know there is nothing the chairman of the committee and I would like better than to be able to go on with the work of the Judiciary Committee and not with parliamentary maneuvering.

Mr. SCHUMER addressed the chair.

The PRESIDING OFFICER. The Senator from Kentucky, the majority whip, has the floor.

Mr. MCCONNELL. Mr. President, the Senator from New York approached me a few moments ago off the floor asking for 2 minutes prior to my response to the Democratic leader. I will be happy to grant him 2 minutes, provided that I be recognized as soon as the Senator from New York completes his 2 minutes.

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

The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I thank my colleague from Kentucky for his usual graciousness.

I compliment our leader, HARRY REID, not only for his words but for his actions. The compromise he seeks is a vital one to the history of this body. Because if we do not reach compromise, the constitutional confrontation that will occur is something the likes of which the Senate has never seen. It could end up destroying whatever is left of comity in the Senate and undo our efforts to move forward on issues the American public cares about.

We are acting here out of strength, not out of weakness. The public is on our side. They realize the nuclear option is overreaching. As our minority leader said, it is not the first time we have seen overreaching here in the Congress in the last few months.

But the compromise is offered in the best of faith. We seriously love this body and wish to avoid ripping it apart. We plead with our colleagues on the other side—the Republican leadership but also those 10 or 12 Republican Members who know this is wrong but are under tremendous pressure to make it come about.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, let me first join in the compliments that have been expressed toward the Democratic leader. He is new to his position. This new precedent, set in the Senate over the last Congress, in which we routinely saw filibustering for the purpose of defeating circuit judges, was not something introduced under Senator REID's majority leadership.

We have had numerous conversations. I have had conversations with Senator REID. He has had a number of conversations with the majority leader about how we might be able to get the Senate back to the way it operated for 214 years quite comfortably.

So far, a compromise has not been achieved. But I compliment the Democratic leader for his willingness to discuss the issue and his understanding that where the Senate is today is simply unacceptable.

So let's talk just for a moment about what is not in dispute. What is not in dispute is that for 214 years the filibuster was not used to kill a nomination for the judiciary when a majority

of the Members of the Senate were for that nominee. When a majority of the Members of this body have been for a nominee, the filibuster has never been used to defeat a nominee in the history of the country.

It is true, we have had a few cloture votes. My good friend from Nevada, the Democratic leader, mentioned two that I think are illustrative of how the Senate should operate. Toward the end of the Clinton years, we had two nominations before this body, Paez and Berzon, both of whom were quite controversial and quite far to the left, for the Ninth Circuit, which some would argue did not need to be pushed any further to the left.

Senator LOTT was the majority leader then. Senator Daschle was the Democratic leader. There were people on this side of the aisle who did not want to see either of those nominees go forward and were prepared to filibuster those nominees for the purpose of defeating them. So our leader had to say to people on our side of the aisle: That is a bad idea. He joined with Senator Daschle and filed cloture not for the purpose of defeating the two nominations but for the purpose of advancing them because, you see, there was a core of Republicans on this side of the aisle prepared to filibuster for the purpose of defeating those nominations.

Responsible leadership on both sides conspired, filed cloture, and cloture was invoked. I was an example of somebody who was not keen on either of those nominees. I voted for cloture because I believed then, and believe now, that judges are entitled to an up-or-down vote here in the Senate, that any President is entitled to that courtesy. So cloture was invoked as a result of the leadership of Senator Daschle and Senator LOTT. We had the votes on the nominees. They both were confirmed—not with my vote but confirmed.

That is the way the Senate ought to operate when there are some Members on each side of the aisle who would go so far as to deny a judge an up-or-down vote. That was the status quo until the last Congress, when, for the first time in the history of the Senate, the filibuster was used for the purpose of defeating a nominee, even when the nominee had a majority of support in the Senate. So there have been no filibusters for the purpose of killing nominees until the last Congress.

Second, there is a lot of discussion about polls, particularly the unbelievable poll on the front page of the Washington Post today which might give some comfort to those who think filibustering judges for the purpose of defeating them is a good idea until you read the way the question was asked. The way the question was asked was almost guaranteed to get the answer.

A more appropriate way to ask the question was the way it was asked in a recent survey by Voter Consumer Research. In that survey, 81 percent of those tested agreed with the idea that “even if they disagree with a judge,

Senate Democrats should at least allow the President's nomination to be voted on,” and only 18 percent disagreed with that, an unbiased way of stating the question. Even if you disagree with the nominee, should the nominee get an up-or-down vote: 81 percent yes; 18 percent no. That is where the American people are on this issue.

With regard to the President's involvement, the President has not been involved in this, but the Vice President happens to be the President of the Senate. He is, because of his duties as President of the Senate, going to be called upon at some point, should we have to go so far as to exercise the Byrd option or constitutional option—and let me make the point that the constitutional option is simply a precedent interpreting a rule of the Senate. Senator BYRD did this not on one occasion, not on two occasions or three occasions, but on four occasions during the time that he was leader, interpreted the rules by a simple majority of the Senate. It has been done before and the Byrd option, of course, could be done again.

Let me say I think our good friends on the other side of the aisle may have a legitimate complaint with regard to the possibility that judicial nominees could be held in committee. I have heard it said on numerous occasions that what they have done out here on the floor of the Senate in the last Congress and are proposing to do in this Congress is no different from what the Republicans did in committee during the Clinton years. I would suggest that any solution to the problem include some kind of expedited procedure under which nominees could get out of committee in an orderly way and get voted on up or down on the Senate floor, thereby eliminating the possibility that the majority party could, in committee, in effect do the same thing the minority party did in the last Congress on the floor. We could level the playing field and make certain that any President's nominee is given fair consideration in committee and fair consideration on the floor.

These are the kinds of things we have been kicking around, discussing in good faith on both sides of the aisle. Again, I compliment the Democratic leader. He has certainly been willing to discuss the issue. I believe we both think where the Senate is today is unacceptable. There is a lot of finger-pointing going on on both sides. Democrats are pointing fingers at Republicans for what was done during the Clinton years; Republicans are pointing fingers at Democrats for what was done in the last Congress. There is a way to cure that, a way to fix it.

It would be a huge mistake for the Senate to get to the point where 41 Members of the Senate can dictate to any President of the United States who gets to be on a circuit court or the Supreme Court. Let me say that again. Where this is headed, I would say to my good friend, the Democratic leader,

and to our colleagues on the other side of the aisle, is in the direction of 41 Members of the Senate being able to dictate to any President who may be on the Supreme Court or a circuit court. That is a bad idea. Against the best efforts of myself and others on this side of the aisle, there could be a Democratic President again as soon as 3 or 4 years from now. I don't think our friends on the other side of the aisle are going to want to have a well-established notion that a mere 41 Members of the Senate are going to be able to dictate to the President who may be on the courts.

I conclude by saying we should continue our discussions—I do think they have been in good faith—to see if we can resolve this situation and get the Senate back to the way it operated prior to the last Congress when nominees were entitled to an up-or-down vote on the floor and, I would add, should be entitled to an up-or-down vote in committee, thereby leveling the playing field and guaranteeing that any President's nominations to the circuit courts and to the Supreme Court get a fair up-or-down vote.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Democratic leader is recognized.

Mr. REID. Mr. President, I appreciate the statement of my distinguished friend. We have worked together for I don't remember how many years because I had his job. A lot of my previous life has been blurred as a result of the past 5 months, but I enjoyed working with him then. He is a master of procedure, certainly understands the Senate. I appreciate not only what he said but the tone of it.

I would just like to say this to the Presiding Officer, being a new Senator, and some others here: One of the problems I have is the deference to the President. George Bush is my President. I didn't vote for him. When he was elected the first time, I didn't vote for him. But we are a country that is so unique. When his election was decided by the Supreme Court after that election, there wasn't a window broken. There wasn't a demonstration held. There were no fires set. He became President of the United States. He became my President and everybody else's. But the fact that he is President of the United States does not take away the fact that he is President, not king. With all the power that he has in that vast bureaucracy, he has no more power than we have in the legislative branch.

My distinguished friend, the Senator from Kentucky, said: We need to give deference to the President's nominations. Yes, I think we need to give deference to the President's nominations, but we are not a rubber stamp for the President. We have an advice and consent role. My friend said he doesn't think it is right to have 41 Members hold up a vote on his judicial nominations. I think it speaks volumes to a

statement that was issued by the majority leader last week. Obviously, one of his Republican colleagues said: Is this rule that you are breaking to change the rules going to apply to legislative filibusters? He issued a one-paragraph statement and said: No, it won't apply to legislative filibusters.

But what it didn't say was anything about Cabinet officers, sub-Cabinet officers, people we have to confirm by law. Do we have a right to say the Senate rule should be in effect and we have a right to hold one of these up by filibuster? Using the logic of my friend from Kentucky and the statement issued by my friend, the distinguished majority leader, obviously they think he should get his choices there, too.

There have been would-be Cabinet officers from the very beginning of this country who never made it, Cabinet officers who were nominated but were never confirmed because people in the Senate, 100 years ago, 200 years ago, 50 years ago said: No thanks. They didn't have a majority but they had enough to filibuster. That is the Senate. If we continue on this path on which we are going, we will just be an extension of the House of Representatives. I have served there. With every matter that comes to the House floor, without exception, there is what they call a rule on it that comes from the Rules Committee. The Rules Committee is chosen by the Speaker. There are Democrats there, but they are only token because whatever the Committee on Rules says, that is what happens on the House floor.

You can bring a bill to the floor, and the Rules Committee can say: No amendments, debate time 20 minutes evenly divided. Or they can bring a piece of legislation to the floor and they can say: Five amendments, an hour each. They can do anything they want to do. They set a rule on every piece of legislation.

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

Mr. REID. Not right now. When Senator INHOFE brings this bill to the floor, the highway bill, this bill is a free-for-all. That is what the Senate is. It is kind of a cluttered, clumsy procedure, but that is what the Senate is. I hope we are not an extension of the House of Representatives where everything we do here is like in the House—a rule is set on it. If people feel strongly enough to break the rules, to change the rules, as they will have to do here, they can change it as to the nominations I have also mentioned. And next, they can change it on legislation. The Senator from Florida has not been here long, but he is certainly an experienced man, a former Cabinet officer of this country. I know he came here a few weeks ago with an important piece of legislation. To him, it was very important because it was important, he believed, to the people of Florida. But you knew, because of Senate procedures, if we wanted to stop that with 41 votes, we could do that. It should apply to everything we do here.

I agree with my friend from Kentucky. I don't think we should be looking to pick fights and say that everybody the President sends up here has to be what we want. We know it is the President's prerogative. But for 214 years, the President consulted with the Senate on judicial nominations, and for many years the committee honored the blue slip, which ensured consultation. We know that during the last few years of the Clinton administration, Senator HATCH said: We are not going to approve anybody unless you run the names past me. That is how we came up with Ginsburg and Breyer. ORRIN HATCH and the Republicans, at that time in the majority, and in the minority other times, said that they liked Breyer and Ginsburg. These nominees flew right through here. Perhaps President Clinton would have liked to have had somebody else. Maybe they were not his first choice. They got out of this body quickly.

So we had this consultation for a long period of time. We honored the blue-slip policy, which ensured consultation. I haven't yet mentioned that one of the many positive things all the political writers talk about is that the filibuster brings about compromise and consultation. You are forced to come and talk about issues, whether it is a piece of legislation the Senator from Florida is trying to get through or whether it is a nomination. I got a call from a Senator today saying: I have a hold on a Senate Cabinet officer, and I want to talk to you about it and see if you can help me work something out. It brings people together. I am confident that on an important issue for the President, we can do that.

Mr. President, I very much thank my friend from Kentucky—not only what he said, but how he said it. I hope something can be resolved here. The right to unlimited debate is something this country has had and something that is needed. I don't think we should be filibustering a lot of judges unnecessarily, but a filibuster is sometimes warranted. There may be unusual situations in the future where we will need to rely on this procedure.

I am happy to yield to my friend from Kentucky.

Mr. McCONNELL. Mr. President, I can make it in the form of a question.

Mr. REID. I am happy to answer a question.

Mr. McCONNELL. Basically, what I want to do is not ask him a question, but allay his concerns about this being a slippery slope that would lead to the end of the legislative filibuster. We had that vote in 1995, I remind my good friend from Nevada, to get rid of the filibuster, period. It got only 19 votes; all 19 of them were Democrats. Not a single Republican voted to get rid of the legislative filibuster. Interestingly enough, this was the first vote after my party came back to power in the Senate. So, arguably, we would have been the big beneficiaries of getting rid of the filibuster. We had just had a

marvelously successful election in 1994. We were in the majority of the House for the first time in 40 years and in the Senate. Somebody on your side of the aisle offered an amendment to get rid of all filibusters. That was the first vote Senator FRIST cast after he was sworn into the Senate—to keep the filibuster. So I can reassure my good friend there is no sentiment that I am aware of anywhere in the Senate for getting rid of the filibuster.

Secondly, I am not aware of any sentiment about the filibuster being a problem with regard to Cabinet or sub-Cabinet appointments.

Third, I am not aware of the filibuster being a problem with regard to district court judges. Senators seem to be—your side has done a good job of confirming district court judges. That is not in dispute. We appreciate that. We think you have done it in a fair manner. What we are talking about here is this problem: for the first time in history the filibustering of circuit court nominees that have a majority of support in the Senate and, if allowed to have an up-or-down vote, all of these judges would be confirmed. They are for the first time in history denying them a vote when they have a majority of support in the Senate, and many of us have a suspicion this is precisely what our good friends on the other side of the aisle have in mind for any subsequent Supreme Court nominations. So why don't we just talk about the problem, which is circuit courts, and potentially the Supreme Court, and reach some kind of understanding that gets us back to the way we comfortably operated here for 214 years. That is what I would hope my good friend from Nevada, the Democratic leader, and ourselves could agree to at some point.

The PRESIDING OFFICER. The Democratic leader has the floor.

Mr. REID. Mr. President, I say to my friend that if a filibuster is OK for a person who is going to serve 4 years as a member of the President's Cabinet, or some lesser period of time, which is usually the case, why would it be wrong, for someone who is going to get a lifetime appointment, to take a look at that person? Why in the world would that be any different? Don't we have an even higher obligation to look at somebody who is going to be appointed for life? Certainly, we have an obligation to do that. There is no reason in the world that the President should get all of his people. I would say that my friends in the majority should understand that we consider our position as Senators. It gives up power to the executive branch of Government.

I am happy to yield to my friend from Nevada.

Mr. SCHUMER. I thank the Senator. I will address a question to my friend from Nevada. I have two questions. I will ask them both. The first is this: Our good friend from Kentucky did speak of compromise, and we do want compromise. But you cannot call something a compromise and then say I

want to win everything. To say that there would be no filibusters of any judges, to say that every judge could be discharged from a committee—you can call that a compromise; you can say the sky is green—it is not a compromise. That is totally the position of the other side. A compromise involves a little pain on each side to be a genuine compromise.

So my first question to my good friend and leader, whom I am proud to serve under, is: Would this side saying we will not filibuster any judge be any kind of compromise at all? The second question to my colleague—I will ask both at once—is this: My friend from Kentucky said: Well, we want an up-or-down vote. Majority rules. Are there not many instances where the Senate does not operate by majority rule, where 60 votes are called for, where 67 votes are called for? In fact, I argue it can be said that 51 Senators, representing only 21 percent of the population of this United States, can pass a law. Isn't it a fact that the Founding Fathers wanted the Senate to be something of a different animal, not a place where if you had 51 percent, you got your way 100 percent of the time but, rather, a place where the rules, the traditions, the way of thinking said come together for compromise; and, in fact, isn't it a fact that the time when this is most important, when the Senate plays its most important role, is when the President, the House, and the Senate are in the control of one party?

My two questions: Is it a compromise—so-called compromise—that says no filibuster on any judges and discharge petitions on all judges, any compromise at all, which my friend from Kentucky seems to think it was, even though it would be everything your side wants and nothing our side wants?

And second, is it not true that the Senate has been founded not on 51-to-49 rule governance all the time, but on a tradition of comity, checks and balances, and bipartisanship where a bare majority does not always rule?

Mr. REID. Mr. President, I say to my friend, this was the Great Compromise during the Constitutional Convention, where these visionary men, our Founding Fathers, worked out the difference between the House and the Senate. They did this purposely and specifically.

I say to my friend, there are many issues here that are decided not by 51, not by 60, not by 67, but many issues take unanimous consent. In fact, most things we do in this body are by unanimous consent. All of us have to agree.

We cannot commit to not having any filibusters, but we will exercise to the very best of our ability discretion, judicious discretion, because we think we are in a new day. We believe this is a new Congress, and we want to show the American people we can work together. And I say to everyone listening that I think we have proven that this year. We have worked on issues that have

taken 15 years to get to the Senate floor. We know that many people on this side of the aisle did not particularly like the class action bill. We know that many people on this side of the aisle did not particularly like the bankruptcy bill, but we took 15 years of history and came here and did things the old-fashioned way. We had a bill on the floor, we offered amendments—some failed, some passed—and moved on. Those bills are now law. People may not like that—some do not—but it shows we can work together here.

My plaintive plea to every one of my 99 friends in the Senate is, let's work something out. Let's try to get along. Let's set a picture that BILL FRIST and HARRY REID can walk out here not representing these special interest groups but representing the American people and trying to keep this body as it is and has been for over 200 years, and walk out here together and say: We have resolved our differences. We are going to move forward with the business of this country. That is my desire.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, briefly, before the Democratic leader leaves, what I fear is that the only thing that has really changed in recent years is the occupant of the White House. With all due respect to my good friend and colleague—and I thank him for his cooperation on class action and bankruptcy; I know that was not easy—here we have my good friend HARRY REID in June of 2001 saying:

We should have up-or-down votes in the committees and on the floor.

We should have up-or-down votes in the committees and on the floor. June 2001.

My good friend Senator SCHUMER is, I believe, still here on the Senate floor. In March of 2000, he said:

I also plead with my colleagues to move judges with alacrity—vote them up or down. . . . This delay makes a mockery of the Constitution.

That is the Democratic leader and our good Senator from New York in 2000, just a few years ago. What has changed between then and now? I suggest the only thing that has changed is the occupant of the White House. All we are pleading for—and again, I thank the Democratic leader. I think he has been gracious, he has been anxious to work with us to come up with some accommodation. But what was routine Senate procedure as late as 2000 and 2001 now has been turned on its head and night is day and day is night. I am having a hard time seeing that anything has changed except the occupant of the White House.

What we need to do is divorce ourselves from who the current occupant of the White House is, who the current majority is in the Senate, and think about the institution in the long term. It seems to me that where we are headed is that 41 Members of the Senate will, in effect, be able to dictate to whomever is in the White House who

the nominees for appeals court judges and for Supreme Court Justices may be. I believe that is not where we need to end up. I do not think it is in their best interest. They may have the White House as soon as January of 2009.

Why can't we just pull back from the abyss, get back to the way we were operating in a way apparently the Democratic leader and the Senator from New York felt was quite appropriate as recently as 2000 and 2001? Why can't we just get back to that and settle this dispute once and for all for future Congresses?

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, first of all, I have no problem with what I said. I believe we should have had some votes in the committee. Remember, 69 never even came before the committee. Following that, there should have been votes here on the floor. Remember, every one of these judges turned down had votes on the floor. They were cloture motions.

My distinguished friend says he does not know of any time in the history of this country where there has been a majority that favored somebody, that there was not cloture filed, or words to that effect. The point is, we do not need to relive history, but 69 of President Clinton's people never even got there, and that is what I was talking about in 2000 and 2001. I would never, ever consider breaking the rules to change the rules. I never suggested that at all.

I say to my friend, I want to work something out. I repeat that for probably the fifth time here today, but in the process we cannot give up the basic rights this country and this Senate have had for more than 200 years. We are willing to compromise, and, as my friend from New York said, compromise means just that. If we are seen as not acting appropriately, then people can respond to us at election time. It is interesting to note, I say to my friend, in talking to some of my Republican friends, of all the circuit nominees I have heard of, there are only a few that I have a problem with. My Republican friends have told me that they have a problem with a couple themselves.

We can work through this. Let's not have a hard-and-fast rule that the only way we are going to do this is through an up-or-down vote on judges because if that is the case, we are wasting our time here. They are going to have to break the rules.

Mr. BOND. Will the minority leader yield for a question?

Mr. SCHUMER. Will my colleague yield?

Mr. REID. I yield to my friend from Missouri—he has been patient—for a question without my losing my right to the floor.

Mr. BOND. Mr. President, I would like to ask the minority leader—I came down here to talk about the highway bill. Is it his understanding that we are on the highway bill?

Mr. REID. And my answer is yes, and I am going to get off the floor just as quickly as I can.

Mr. SCHUMER. Mr. President, will my colleague yield?

Mr. REID. Yes.

Mr. SCHUMER. I will be brief, as I know my friend from Missouri has been patient. I want to augment, since my name was mentioned, what my colleague said. What we were talking about was bringing votes to the floor. We did not say majority vote, nor did we try to stop the filibusters that were going on for Mr. Paez and Ms. Berzon.

The bottom line is those two were not allowed to get votes for 4 years, 5½ years. The nominees here have come to the floor and, by the rules of the Senate, they did not garner sufficient support. It is a lot different not bringing them up at all, and that is what we were talking about, rather than bringing them up and then letting them be disposed of by the Senate rules. In fact, the quote, the first part of it I believe I was talking to my colleague from New Hampshire: You can debate this as long as you want, just bring it up.

I thank my colleague.

Mr. REID. I appreciate everyone's patience.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, I assure the Senator from Missouri, I am also about through. Listening to Senator SCHUMER, maybe we have parameters of an understanding here. I think it was probably before the Senator from New York came on the floor, but I suggested that we couple an assurance that we have an up-or-down vote on the floor of the Senate for appellate court judges and Supreme Court Justices with a guaranteed expedited procedure in committee, guarantee that some of the legitimate grievances his party may have had toward the end of the Clinton years could not be committed again. All of this seems to me presents the possibility for an understanding that might settle this issue once and for all.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The highway bill is the pending question.

Mr. INHOFE. Mr. President, as we have said, we are on the substitute, our committee substitute. That will be the one that will receive amendments. We have invited Members to come to the floor with their amendments.

While we are waiting for those to come to the floor, I will go over what is before us section by section. Then when someone comes in for the purpose of offering an amendment, I will be glad to stop and then yield to that a person.

I first ask if the ranking minority member, Senator JEFFORDS, had any comments to make before we go on to amendments.

Mr. JEFFORDS. I thank the Senator for the opportunity but the answer is no.

Mr. INHOFE. First, I will start section by section. Section 1101 of the bill authorizes \$283.9 billion in guaranteed spending and contract authority over a 6-year period. This level is consistent with levels adopted by the House and the White House. Subtracting authorizations for mass transit and safety and funding for fiscal year 2004, the bill provides \$191 billion for maintenance and improvement to the Nation's roads and bridges over the 5-year period from fiscal year 2005 through 2009.

Let us keep in mind that this was essentially the same bill at a different funding level than we had a year ago this week, I believe. So we already have a year behind us. What we have done for this statement is to say what is there other than what has already been used for the first year, fiscal year 2005, and also mass transit and safety.

The link between a robust economy and a strong transportation infrastructure is undeniable. The movement of people and goods is one of the foremost indicators of a growing economy and job creation. At this point, we need to recognize that people have been concerned—were concerned a few years ago—about the economy, and we are recognizing that this administration actually inherited a recession and we are coming out of it now. But there is no single thing we could do that would provide more jobs and more economic activity. I suggest to the President that for each 1-percent increase in economic activity, it provides an additional 47,000 jobs. So do the math and we can see what a great boon this would be.

The bill before us today recognizes the realities of available revenues without the need for increasing gas taxes. It is designed to make the most of every available dollar for better and safer roads, while creating thousands of new jobs.

It probably is anticipated that there will be amendments to increase this amount. I anticipate there may be an amendment by the chairman and the ranking member of the Finance Committee, Senator GRASSLEY and Senator BAUCUS, and if not them then somebody else would probably do it. When this happens, they would, of course, be in a position to come up with the amount of money that would be necessary.

One of the things I commented about last year is that we were always within the amount of money that we could identify—in other words, the amount of money that was anticipated coming in from Federal revenues from gas purchases, along with other areas we could identify.

The total obligation authorized in this bill is \$188 billion for a period from fiscal year 2005 to 2009.

In addition to the increases in funding for the overall program, the bill makes important changes to the appor-

tionments of a few specific programs. Under TEA-21, which we adopted 7 years ago, the administrative expenses for the Federal Highway Administration were funded as a takedown from the various core programs. This bill recognizes the separate importance of costs associated with the administration of the overall highway program. Therefore, the bill funds Federal Highway Administration expenses at its own separate apportionment protecting the autonomy of the individual core programs and the administrative fund itself.

Of the amount designated for program administration, the Secretary of Transportation is also given the authority to transfer an appropriate amount to the administrative expenses of the Appalachian Highway Development System.

As a result of the 2000 census, 46 new metropolitan planning organizations, known as MPOs, have been established throughout the country and are now eligible for Federal transportation planning funding. To respond to this expanded need, we have increased the program set-asides for MPOs from 1 percent under TEA-21 to up to 1½ percent. This, along with the overall increase in program funds, will help to address the growing transportation planning needs.

Section 1104 is the equity bonus section. TEA-21 used the minimum guarantee calculation to guarantee that States receive back at least 90.5 percent of their percentage contributed to the highway trust fund. This is very significant. It has become quite controversial. Last week and this week we have talked for several hours on this bill about the various donor States. My State of Oklahoma has always been a donor State, since the programs began. I can remember that donor amount was 75 percent; that is to say, each State was guaranteed to get back 75 percent of the money that was sent in. Slowly that has crept up and it is currently at 90.5 percent.

Had we passed the bill that we had in conference last year—the bill that we sent to conference had \$318 billion of authorization—then we would have everybody at the end of this 6-year period up to 95 percent. So it would have gone from 90.5 percent to 95 percent.

The minimum guarantee program is driven by a political distribution known as the 1104 table. The bill replaces the old minimum guarantee program and the 1104 table with a new equity bonus program that ensures a percentage return to States of 92 percent in each of the fiscal years 2005 through 2009.

At this point we can say it is very complicated, but the equity bonus program is just what it states: it is an equity program. The program does away with the table in TEA-21 which determined each State's percentage share of the total highway program. Rather than have a State's return be set by a politically driven table, the equity

bonus program determines each State's return by first relying on the program distribution of formulas.

This is not the easy way of doing it; this is the hard way of doing it. I am sure Senator JEFFORDS joins me in saying it would be a lot easier to have a minimum guarantee for any State, work out their deal, make 60 Members of the Senate happy, and walk away. That would have been done a long time ago if we decided to do it that way. But that is not equitable, and I think that is the wrong way to do business.

In fact, I say to people who criticize this bill saying it has pork in it, there are only two projects in the entire bill. The bill before us right now in the form of a substitute only has two projects in it. That is not the case over in the other body. They have several hundred projects. It has been my philosophy, and I think it is shared by the ranking minority, that the closer one gets to home, the better these decisions are.

If we can determine an equitable formula, which I believe we have done, we can send it back to the States and let the local people make the determinations as to how that is going to be spent. Now, a lot of people in Washington do not agree with that. A lot of them think if the decision is not made in Washington, it is not a good decision. I believe we are doing it the right way.

The equity bonus calculation identifies a justifiable nexus in equity between the underlying formulas and responsible balanced growth for donor and donee States alike. If a State fails to reach the minimum return in any year based on the formulas, that State would receive an equity bonus apportionment in addition to their formula funds to bring them up to the required level.

While we allow the formulas to work under the new equity bonus program, we also recognize there would be some inequities if we allowed the formulas to be the sole factor in distributing dollars to the States. In order to increase the minimum rate of return for donor States while ensuring an equitable transition of donee States, rates of return are subject to an annual growth ceiling to smooth out the phase-in of increased minimum returns. This accomplishes two goals. First, it keeps the cost of the equity bonus program affordable; secondly, it ensures that donee States are still able to grow so no States grow less than 10 percent over their TEA-21 levels. Everyone is guaranteed an increase from their own levels, at least 10 percent.

There is a cap on equity bonus. No State may receive a portion more than a specific percentage of their average portion received under TEA-21. So you have two caps—a floor and a ceiling. That helps the formulas work.

There is a special rule to protect States with population densities less than 20 persons per square mile, a population of less than 1 million, a median household income of less than \$35,000,

or a State with a fatality rate during 2002 on the interstate highways greater than 1 fatality per 100 million vehicle miles traveled.

We said a lot in one paragraph. It shows the complications of a formula. First, we have to take care of the States that do not have a population. Look at Montana, Wyoming, some of the sparsely populated States. They still have to have roads. Second, we have said for the States that might have a lower per capita income, they can be considered poverty States, so there is a consideration. My State of Oklahoma is in a different situation than many other States and we would benefit from that. Or a State with a fatality rise during 2002. It is absolutely necessary to have part of the formula attributed to a consideration for money being made to States where the fatality rate is higher than average. That takes us through several of the sections.

At this point, if there are any Senators who would like to offer amendments, I encourage them to come to the Chamber and offer amendments, at the end of which time we will continue to go through the bill section by section.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 572 TO AMENDMENT NO. 567

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 572.

Mr. THUNE. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the section relating to National Scenic Byways to provide for the designation of Indian scenic byways)

Strike section 1602(a) and insert the following:

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “the roads as” and all that follows and inserting “the roads as—

“(A) National Scenic Byways;

“(B) All-American Roads; or

“(C) America's Byways.”;

(B) in paragraph (3)—

(i) by striking “To be considered” and inserting the following:

“(A) IN GENERAL.—To be considered”;

(ii) in subparagraph (A) (as designated by clause (1))—

(I) by inserting “, an Indian tribe, ” after “nominated by a State”; and

(II) by inserting “, an Indian scenic byway,” after “designated as a State scenic byway”; and

(iii) by adding at the end the following:

“(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a Na-

tional Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

“(i) jurisdiction over the road; or

“(ii) responsibility for managing the road.

“(C) SAFETY.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).”; and

(C) by adding at the end the following:

“(4) RECIPROCAL NOTIFICATION.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

“(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

“(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “and Indian tribes” after “provide technical assistance to States”;;

(ii) in subparagraph (A), by striking “designated as” and all that follows and inserting “designated as—

“(i) National Scenic Byways;

“(ii) All-American Roads;

“(iii) America's Byways;

“(iv) State scenic byways; or

“(v) Indian scenic byways; and”;

(iii) in subparagraph (B), by inserting “or Indian” after “State”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “Byway or All-American Road” and inserting “Byway, All-American Road, or 1 of America's Byways”;

(ii) in subparagraph (B)—

(I) by striking “State-designated” and inserting “State or Indian”; and

(II) by striking “designation as a” and all that follows and inserting “designation as—

“(i) a National Scenic Byway;

“(ii) an All-American Road; or

“(iii) 1 of America's Byways; and”;

(iii) in subparagraph (C), by inserting “or Indian” after “State”;

(3) in subsection (c)—

(A) in paragraph (1), by inserting “or Indian” after “State”;

(B) in paragraph (3)—

(i) by inserting “Indian scenic byway,” after “improvements to a State scenic byway,”; and

(ii) by inserting “Indian scenic byway,” after “designation as a State scenic byway,”; and

(C) in paragraph (4), by striking “passing lane,”; and

(4) in subsection (e), by inserting “or Indian tribe” after “State”.

Mr. THUNE. Mr. President, I hope my amendment will be included as part of the final bill. I know the managers intend to offer a managers' amendment. I want my colleagues to know I have been working with the chairman, the Senator from Oklahoma, the ranking member, Senator JEFFORDS from Vermont, of the Committee on Environment and Public Works concerning this issue since we marked up the underlying bill in committee last month.

While Chairman INHOFE and Ranking Member JEFFORDS, Subcommittee Chair BOND, and Ranking Subcommittee Member BAUCUS initially had questions regarding my amendment in committee, I understand now

the staff has been able to work through all of those concerns.

Simply put, my amendment seeks to allow Native American tribes the ability to nominate roads to the Secretary of Transportation for designation as scenic byways, All-American Roads, or America's Byways.

Currently, Indian tribes are only allowed to nominate roads for designation under the Scenic Byways Program if they first go through their respective State Department of Transportation or Federal land management agencies such as the National Park Service or the Bureau of Indian Affairs. My amendment allows tribes to designate those roads over which they have jurisdiction or management responsibility as tribal scenic byways which then allows them to directly nominate the road for national designation with the Secretary of Transportation.

Additionally, my amendment calls on tribes to ensure the safety and quality of the roads that are designated as scenic byways similar to the requirements States currently have. In no way does this amendment impact the funding available for scenic byways. It simply grants Indian tribes the same ability States and Federal land management agencies currently have to nominate roads.

In closing, this is an issue of fairness and something I hope the managers of the bill will be able to accept. It does not impact current levels of funding. It simply allows for more flexibility for the Native American tribes in this country to designate roads that are under their jurisdiction and management.

I hope the managers will be able to accept the amendment. As I said earlier today, I hope we can proceed to get this bill through the process, through the Senate, into conference with the House, and on the President's desk because it is so important to this Nation's future, to my State of South Dakota, and to all those tribes, local governments, State highway departments, business groups, and those who are awaiting final action on the highway bill.

I yield back the remainder of my time and ask for favorable consideration of this amendment.

Mr. INHOFE. Mr. President, I thank the Senator for his amendment and for working with us on this committee. I am sure he is aware the amendment concerns a large number of tribal communities in Oklahoma, as well as those in South Dakota. I believe right now we have the largest percentage of Native Americans per capita of any of the States.

This amendment has been cleared on both sides. I ask the Senator from Vermont if it is the Senator's wish to go ahead and accept this now, if this has been cleared on the minority side.

Mr. JEFFORDS. I am very pleased to concur in the amendment. The Senator has made an excellent presentation. I appreciate the work of the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 572) was agreed to.

Mr. THUNE. Mr. President, I thank the distinguished chairman, Senator INHOFE, and Senator JEFFORDS for their help.

Mr. INHOFE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. THUNE. I thank the Senator from Oklahoma and the Senator from Vermont for their assistance and for their staffs' work. This will improve the way the roads are treated on the reservations and give our tribes more flexibility and discretion when it comes to how they treat the roads.

Mr. INHOFE. I appreciate the Senator from South Dakota coming down. He has submitted the first amendment to this bill, an amendment as meaningful to Oklahoma and other States as to South Dakota. We thank the Senator for his effort.

We invite other Members to offer their amendments. I am not implying they will all be that easy, but we invite our Senators to offer amendments.

I was going over section 1104, the most complicated section in the bill, the equity bonus section. We talked about the fact it does protect States that are of a lower income, densely populated States, States that have our donor status, States that are donee status. This is an important part of the bill.

The scope or percentage of funding included in the equity bonus and in the program remains the same, at 92.5 percent as TEA-21. This is significant. That means 92.5 percent of everything in this bill, whatever it ends up being, whether \$284 billion or another amount, is done through this equitable manner. It minimizes what a lot of people would criticize as being pork for special projects.

In order to craft a successful formula, we have to balance the needs of donor and donee States. I will be the first to acknowledge this balance, as with any compromise, is not perfect. A few minutes ago we talked about compromises and they aren't perfect.

However, I can say with, I am sure, the agreement of the ranking minority member, there were many compromises made during the construction of this bill over the past 2½ years the Senator from Vermont disagreed with and with which I disagreed. But in the spirit of compromise we were able to get these things done.

My colleagues in representing donee and donor States that received lower rates of return or growth rates than they feel fair have made this fact very clear. I am sympathetic to the concerns of both donor and donees in this situation. They both have significant transportation needs that cannot be ig-

nored. Addressing their concerns is more difficult in the last year due to the fact we have less money.

When we were dealing with the bill we passed out of the Senate and sent to conference last year, just at about this time, it was at a higher level, and that did guarantee every State would reach, at the end of the 6-year period, at least a 95-percent return. I know my people in the State of Oklahoma wanted a 95-percent return, and they were very disappointed when we were unable to get it out of conference, when I had every expectation we would get it out of conference.

So now, in order to get up to a higher amount, we have to be dealing with a different funding level. We have to wait and let the process take place and see what happens on that.

Section 1105 is the revenue aligned budget authority, the RABA. The huge 2003 negative adjustment in revenue aligned budget authority, or RABA, made it clear that some changes were needed to the RABA calculation in order to provide greater stability, more accurate predictions, and less fluctuation in coming years. As I have indicated before, I believe the underlying principle of RABA is an important fiscal policy and that highway expenditures should be tied to highway trust fund revenues.

This bill modifies the RABA calculation so that annual funding level adjustments are less dependent on future anticipated receipts and more dependent on actual receipts to the highway trust fund. If the RABA adjustment in a fiscal year is negative, the amount of contract authority apportioned to the States for that year will be reduced by an amount equal to the negative RABA.

Under TEA-21, negative adjustments were delayed until the succeeding fiscal year. Under the new method—the change we are making—no reduction to apportionments is made for RABA when the cash balance on the highway trust fund, other than the mass transit account, exceeds \$6 billion.

Section 1201 is the Infrastructure Performance and Maintenance Program, the IPAM. The Infrastructure Performance and Maintenance Program is intended for ready-to-go projects that States can undertake and complete within a relatively short timeframe. This is very important because we are now—I anticipate we will pass this bill—into the construction season. Some of my friends from Northern States have much shorter construction seasons than some, such as the Presiding Officer. They have 12 months a year for construction. We are not quite that fortunate.

So this allows those projects that are ready to go, to go ahead—as soon as this bill is signed into law—and in a very short timeframe to be completed.

As a result, States are given 6 months to obligate IPAM funds. We designed this discretionary program to promote projects that result in immediate benefits for the highway system's



condition and performance, while avoiding long-term commitments of funds. The program also provides further economic stimulus to the economy and provides a way to aid in spending down balances in the highway trust fund.

States may obligate funds for projects eligible under Interstate Maintenance; the National Highway System; the Surface Transportation Program; the Highway Safety Improvement Program; Congestion Mitigation and Air Quality Improvement, the CMAQ Program; and the Highway Bridge Program.

Eligible projects under the IPAM Program include the preservation, maintenance, and improvement of existing highway elements, including hurricane evacuation routes, operational improvements at points of recurring highway congestion, and systematic changes to manage or improve areas of congestion.

Section 1202 is the future of the surface transportation system. In order to be prepared for future reauthorizations of this legislation, we require the Secretary of Transportation to perform a long-term investigation into the surface transportation infrastructure needs of the Nation. Specifically, the bill directs the Secretary to look at, first, the current condition and performance of the interstate system; next, the future of the interstate system in 15, 30, and 50 years; third, the expected demographics and business uses that impact the surface transportation system; fourth, the effect of changing vehicle types, modes of transportation, traffic volumes, and fleet size and weights; fifth, possible design changes; sixth, urban, rural, inter-regional and national needs; seventh, improvements in emergency preparedness; eighth, real-time performance data collection; and, ninth, future funding needs and potential approaches to collect those funds.

Now, that concludes section 1202.

Mr. President, it is my understanding that a Senator is here who wants the floor for a purpose other than the highway bill.

Mr. KENNEDY. Mr. President, I say to the Senator, I would like to make very brief comments on the Transportation bill, but I would also like to address the Senate on another subject matter. If there were Senators here who would like to talk on the highway bill, I would withhold. If there were not other Senators here on that legislation, I would hope to be able to address the Senate.

Mr. INHOFE. Mr. President, I would make the request of the Senator from Massachusetts to go ahead and proceed in terms of his comments on the highway bill. Then, since we do have others coming down, we have to get through this section by section. Can the Senator give us an idea about how much time he would like to have?

Mr. KENNEDY. Twenty minutes.

Mr. INHOFE. I would ask the Senator, if we were to go ahead and allow

you 20 minutes on another subject, if someone came down, prior to that time being used, to offer an amendment, would you at that time yield the floor? It is highly unlikely that will happen, but we do want to stay on this bill.

Mr. KENNEDY. I would be glad to yield the floor for the purpose of a Senator offering an amendment, if I could retain the floor just to finish my remarks, but I would be glad to let the person offer their amendment.

Mr. INHOFE. Mr. President, I have no objection to the 20 minutes for that purpose.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator.

Mr. President, first of all, I think all of us understand this Transportation bill is the No. 1 jobs bill the Senate will debate this year. Mr. President, 47,000 jobs are created for every \$1 billion in this legislation. This bill would create 140,000 jobs in my own State of Massachusetts. But this bill has \$34 billion less than last year's Senate bill, and, incredibly, a \$1.7 billion cut in public transit. So the Senate must find a way to restore these cuts.

In my own State, we have a crucial need for this kind of help and assistance in terms of our roads and our bridges and also in terms of mass transit. It is one of the most important pieces of legislation. It is fundamental in terms of our economy. We are very conscious that there are many growth areas across this country. Those growth areas require additional kinds of investment in terms of the highway system.

But there are also other older areas where the roads are heavily used, and used much more than just by the people who inhabit that particular State. Generally, consideration is not given as to the amount of usage of many of these roads. So in many of the older States, in New England, for example, and the eastern seaboard, many of these roads are heavily used not only by those who live in those particular States but others as well. There is a very important need to make sure those roads are going to be safe for those who travel on the roads and also be safe and secure in order to add an additional dimension to our national economy.

So I am going to support this legislation. I do hope we will be able to find additional resources. I know those resources can make a major difference and be put to work effectively, in terms of strengthening and improving not only our interstate system but also the transportation systems in our States. It is a very solid investment that is paid back many times over by the returns in our economy.

#### ANNIVERSARY OF THE ABU GHRAIB SCANDAL

Mr. President, the sad anniversary of the Abu Ghraib torture scandal is now upon us. It is an appropriate time to reflect on how well we have responded as a nation.

The images of cruelty and perversion are still difficult to look at a year later: an Iraqi prisoner in a dark hood and cape, standing on a cardboard box with electrodes attached to his body; naked men forced to simulate sex acts on each other; a corpse of a man who had been beaten to death lying in ice next to soldiers smiling and giving a thumbs-up sign; a pool of blood from the wounds of a naked, defenseless prisoner attacked by a military dog. These images are seared in our collective memory.

The reports of widespread abuse by U.S. personnel were initially met with disbelief and then incomprehension. They stand in sharp contrast to the values America has always stood for, our belief in the dignity and worth of all people, our unequivocal stance against torture and abuse, our commitment to the rule of law. The images horrified us and severely damaged our reputation in the Middle East and around the world.

On December 4, 2003, President Bush had proclaimed to the world the capture of Saddam Hussein brought further assurance that the torture chambers and the secret police are gone forever. The photos of Abu Ghraib made all too clear that torture continued in occupied Iraq. Where are we a year later? Has this problem been resolved? Has the moral authority of the United States been restored? Have we recovered from what is perhaps the steepest and deepest fall from grace in our history?

Sadly the answer is no. Because at every opportunity, the administration has tried to minimize the problem and avoid responsibility for it. The tone was set at the very start. Senior level military commanders knew about the problems much earlier. They knew about Abu Ghraib photos as early as January 2004. General Taguba submitted his scathing report on February 26. Yet rather than deal with the problem honestly, Pentagon officials persuaded CBS News to delay its report while they developed a damage control plan.

The plan included an effort to minimize the abuse as the work of a few bad apples, all conveniently lower rank soldiers, in a desperate effort to emphasize the role of senior military officials in exposing the scandal and insulate the civilian leadership from responsibility. It was clear from the start that further investigation of the abuse was needed. The American people deserved a thorough review of all detention and interrogation policies used by military and intelligence personnel abroad and a full accounting of all officials responsible for the policies that allowed the abuses to take place.

What we got instead were nine incomplete and self-serving internal investigations by the Pentagon. None of the assigned investigators were given the authority to challenge the conduct of the civilian command. For example, the Schlesinger panel's report found

that abuses were widespread and there was both institutional and personal responsibility at a higher level. But Secretary Rumsfeld did not authorize the panel to address matters of personal accountability.

The assigned investigators were also denied the cooperation of the CIA which had a central role in the torture scandal. General Fay found that CIA practices led to “a loss of accountability, abuse” and “poisoned the atmosphere at Abu Ghraib.” His efforts to fully uncover the agency’s role, however, were stymied by their refusal to respond to his requests for information. Indeed, no investigation, congressional or otherwise, has gotten full cooperation from the CIA.

With respect to matters under the Defense Department’s control, the answers we received have been inconsistent and incomplete. In May 2004, General Sanchez categorically denied to the Senate Armed Services Committee that he had approved the use of sleep deprivation, excessive noise, and intimidation by guard dogs as interrogation techniques in Iraq. A memorandum uncovered last month by the ACLU, however, showed he had, in fact, approved the use of these techniques.

Secretary Rumsfeld told the committee the military received its first indication of trouble at Abu Ghraib when a low-ranking soldier came forward in January 2004. Only later did we learn from press reports that throughout 2003, the Red Cross had provided the military with detailed reports about torture and other abuses at the prison and elsewhere in Iraq. The State Department and the Coalition Provisional Authority also appealed to top military officials to stop the abuse during 2003.

The Church report, released last month, rejected any connection between the official interrogation policies in Iraq and the abuses that occurred. The Fay report, by contrast, blamed the abuses at Abu Ghraib on a number of “systemic problems” that included “inadequate interrogation doctrine and training” and “the lack of clear interrogation policy for the Iraq Campaign.”

Other parts of the Church report, including those on the role of general counsel William Haynes in adopting the radical legal reasoning of the Justice Department’s Bybee memoranda over the vigorous objections of experienced JAG officers, have been wrongly classified. In fact, the Defense Department has repeatedly abused its classification procedures to hide critical information from Congress and the public.

Similarly, the Justice Department has gone to extremes to withhold from public scrutiny legal memos it considers too embarrassing to reveal. Even Congress has been remiss in its responsibilities to oversee the scandal. As Senator ROCKEFELLER, the vice chairman of the Senate Select Committee on Intelligence, said:

More disturbingly, the Senate Intelligence Committee—the Committee charged with overseeing intelligence programs and the only one with the jurisdiction to investigate all aspects of this issue—is sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters.

A year after Abu Ghraib, new revelations about the abuse committed by United States personnel are still being reported frequently. The military has confirmed 28 acts of homicide committed against detainees in United States custody in Iraq and Afghanistan since 2002. Only one of these deaths took place at Abu Ghraib. The Red Cross has documented scores of abuses at United States facilities across Iraq, Afghanistan, and at the naval base at Guantanamo. FBI agents have reported “torture techniques” at Guantanamo, including techniques that senior Pentagon officials had specifically denied were being used.

Top officials in the administration have endorsed interrogation methods we have condemned in other countries, including binding prisoners in painful stress positions, threatening them with dogs, extended sleep deprivation, and simulated drownings. The administration has also increased the practice of rendering detainees to countries such as Syria, Egypt, and Jordan, countries the State Department condemned in its most recent human rights reports because of their use of torture. The practice of rendition—described by a former CIA official as “finding someone else to do your dirty work”—is a clear violation of our treaty obligations under the Convention Against Torture.

We know many of these harsh techniques are no more effective at obtaining reliable information than traditional law enforcement techniques. After considerable debate with the FBI, the military acknowledged its methods were no more successful during interrogations at Guantanamo Bay than the FBI’s methods. General Miller, former commander at Guantanamo, testified the Army Field Manual provided sufficient tools for intelligence gathering.

As Ambassador Negroponte, our Nation’s new intelligence czar, said:

Not only is torture illegal and reprehensible, but even if it were not so, I don’t think it’s an effective way of producing useful information.

Stripped to its essence, torturing prisoners is morally wrong and unproductive. Yet political leaders made a deliberate decision to throw out the well-established legal framework that has long made America the gold standard for human rights throughout the world. The administration left our soldiers, case officers, and intelligence agents in a fog of ambiguity. They were told to take the gloves off without knowing what the limits were.

In a series of secret memos and correspondence, some of which have still not been provided to Congress, top level lawyers engaged in a wholesale rewriting of human rights laws. In re-

writing our human rights laws, the administration consistently overruled the objection of experienced military personnel and diplomats.

As Secretary of State Colin Powell warned the White House:

It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops.

Senior Defense officials were warned that changing the rules could lead to so-called “force drift,” in which, without clearer guidance, the level of force applied to an uncooperative detainee might well result in torture.

When leaders didn’t like what they heard, they cut off the criticism. When Secretary Powell raised concerns about the decision not to apply the Geneva Conventions to the conflict in Afghanistan, White House Counsel Gonzales cut him out of the process. When lawyers objected to the radical views in the Bybee Torture Memorandum, Defense Department General Counsel Haynes cut them out of the process and made the memo official policy for the entire military.

What happened here was not a reasoned response to 9/11—an objective reassessment of our rules and policies to account for the rise in terrorism. Instead, the leaders used 9/11 to undermine any constraints on the power of the President, and the country has been paying a high price for their arrogance ever since.

Dozens of administration memoranda involving post-9/11 detention and interrogation have come to light in the past year. Yet, in not one of these memos is there an appreciation of how well the existing rules served the Nation in past conflicts. Not one of them explains why the Army’s interrogation manual, which discusses dozens of effective techniques that comply with domestic and international law, no longer serves America’s interests. Not one of them comments on how compliance with the Geneva Conventions protects U.S. soldiers.

Clearly, the civilian lawyers in the Defense Department, the Justice Department, and the White House Counsel’s office have been on an ideological mission. Their goal was not to reassess the current rules on detention and interrogation in light of the 9/11 attacks; their goal was to destroy them and, to a large extent, they succeeded.

The military was set adrift from its longstanding rules and traditions. The Bybee torture memorandum was eventually repudiated by the Justice Department, but the Pentagon’s Working Group Report of April 2003, which incorporated the Bybee memorandum nearly verbatim, has still not been explicitly superseded, and no new guidance has gone to the field.

Our men and women in the military are still not clear whether and to what extent they should consider themselves bound by the Convention Against Torture, the Federal law prohibiting torture, or even the provisions of the Uniform Code of Military Justice that prohibit torture and cruel treatment. The

basic validity of the military's "golden rule"—treat captured enemy forces as we would want our own prisoners of war to be treated—is in doubt.

The President has directed the military to treat detainees "humanely," but this directive has not provided adequate guidance to our troops. General Counsel Haynes himself advised Secretary Rumsfeld that simulated drowning, forced nudity, the use of dogs to create stress, threats to kill a detainee's family, and other extreme tactics all qualified as "humane." When the Pentagon's top civilian lawyer shows so little respect for human dignity, how can we expect more from our soldiers serving in the field?

As for the CIA, it was conspicuously excluded from the President's directive on humane treatment. More recently, we have learned that the administration does not believe that the prohibition against cruel, inhuman and degrading treatment applies to foreigners held by our government agencies abroad. The CIA concealed detainees from the Army and the Red Cross. It continues to send dozens of detainees to countries known to practice torture. It says it's conducting its own investigation into the abuses, but it refuses to provide a timetable or any preliminary findings. No agency should be above the law. The CIA must answer for its activities.

Accountability for the torture scandal continues to be lacking.

We know about the prosecutions of the low-level, "bad apple" soldiers involved in the abuse at Abu Ghraib. But prosecutions have been declined for other soldiers, including 17 implicated in the deaths of three prisoners in Iraq and Afghanistan. Not a single CIA official has been charged, although one private contractor is awaiting trial for the killing of a detainee in Afghanistan.

Even more disturbing, no action—criminal, administrative, or otherwise—has been taken against the high civilian officials responsible for the authorization of torture and mistreatment by U.S. officials in Iraq, Afghanistan, Guantanamo, and elsewhere. We know about the actions that have been taken against Charles Graner and Lynndie England. But what about William Haynes, Alberto Gonzales, Jay Bybee, John Yoo, David Addington, Douglas Feith?

These officials were warned of the consequences of undoing the rules before they changed them. They were informed of the objections to use of these harsh techniques. The FBI, the Naval Criminal Investigative Service, and the British all refused to participate in interrogations because they had such grave concerns about the brutal methods. Finally, one brave soldier, Joseph Darby, acknowledged that what was happening was wrong.

Far from being held accountable, some of these officials have been promoted. Bybee, who signed the notorious Justice Department memo-

randum redefining torture, was confirmed to a lifetime judgeship on a Federal appellate court. Haynes, the general counsel who made the Bybee memorandum official policy for the military, has been re-nominated for another appellate judgeship. Gonzales now serves as the Nation's Attorney General.

Last weekend, the Army's Inspector General revealed he had exonerated almost all of its top officers of any responsibility for abuse of detainees at Abu Ghraib, even though one of them, Lieutenant General Sanchez, explicitly approved the use of severe interrogation practices, and even though a review by former Secretary of Defense James Schlesinger found that General Sanchez and his deputy "failed to ensure proper staff oversight of" the operations at Abu Ghraib.

What signal does this pattern of prosecutions for low-ranking soldiers, exonerations for generals, and promotion for civilians send to our men and women in the Armed Services, and to our veterans?

The torture scandal is not going away on its own. Our Nation will continue to be harmed by the reports of abuse of detainees in U.S. custody, the failure by top officials to take action, and the abandonment of our basic rules and traditions on human rights.

The scandal directly endangers U.S. soldiers and U.S. civilians abroad. We no longer demand that those we capture in the war on terrorism be treated as we treat prisoners of other wars. What will we say to a country that justifies its torture of a U.S. soldier by citing our support for such treatment? How can we hold other nations accountable for their own human rights violations, when we continue to hold prisoners for years, without charging them or convicting them of anything?

The Nation's standing as a leader on human rights and respect for the rule of law has been severely undermined.

We cannot simply answer, as some have done, that the behavior is acceptable because terrorists do worse. By lowering our standards, we have reduced our moral authority in the world. The torture scandal has clearly set back our effort in the war on terrorism. It is fueling the current insurgency in Iraq. Even our closest allies, such as Great Britain, have raised objections to our treatment and rendition of detainees.

Al-Qaida is still the gravest threat we face. The widespread perception that the U.S. condones torture only strengthens the ability of al-Qaida and others to create a backlash of hatred against America around the world. If we do not act to locate official responsibility for Abu Ghraib, we will condone a new status quo in which our policy toward torture is technically one of zero tolerance, while de facto our officials tolerate and commit torture daily.

Many of us were struck by the rhetoric in President Bush's Inaugural Ad-

dress. "From the day of our founding," he said, "we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value, because they bear the image of the Maker of Heaven and earth." Many of us would like to work with the President to develop a foreign policy that advances these important values. But rarely has the gulf between a President's rhetoric and his administration's actions been so wide. It is simply not possible to reconcile his claim that "America's belief in human dignity will guide our policies" with the barbaric acts that have been committed in America's name.

We must not allow inaction to undermine two bedrock principles of human rights law that we worked hard to establish at Nuremberg: that higher officials cannot escape command responsibility and lower officials cannot excuse their actions by claiming that they were "just following orders."

It is time to come to terms with the continuing costs of the torture scandal, and respond effectively. We need to fully restore the Nation's credibility and moral standing, so that we can more effectively pursue the Nation's interests in the future.

First, we must acknowledge that the rule of law is not a luxury to be abandoned in time of war, or bent or circumvented at the whim and convenience of the White House. It is a fundamental safeguard in our democracy and a continuing source of our country's strength throughout the world.

Sadly, a recent National Defense Strategy policy contained this remarkable statement: "Our strength as a nation state will continue to be challenged by those who employ a strategy of the weak using international fora, judicial processes, and terrorism." Who could have imagined that our Government would ever describe "judicial processes" as a challenge to our national security—much less mention it in the same breath as terrorism? Such statements do not reflect traditional conservative values, and they are clearly inconsistent with the ideals that America has always stood for here and around the world.

Second, we must acknowledge and apply the broad consensus that exists against torture and inhumane treatment.

Never before has torture been a Republican versus Democrat issue. Instead, it's always been an issue of broad consensus and ideals, reflecting the fundamental values of the Nation, and the ideals of the world.

President Reagan signed the Convention Against Torture in 1988. The first President Bush and President Clinton supported its ratification. The Senate Foreign Relations Committee, led by Senator Jesse Helms, voted 10-0 in 1994 to recommend that the full Senate approve it. The Clinton administration adopted a "zero tolerance" policy on torture. Torture became something that Americans of all political affiliations agreed never to do.

And 9/11 didn't nullify this consensus. We did not resolve as a Nation to set aside our values and the Constitution after those vicious attacks. We did not decide as a Nation to stoop to the level of the terrorists, and those who did deserve to be held fully accountable.

Americans continue to be united in the belief that an essential part of winning the war on terrorism and protecting the country for the future is safeguarding the ideals and values that America stands for at home and around the world.

That includes the belief that torture is still beyond the pale. The vast majority of Americans strongly reject the cruel interrogation tactics used in Iraq, Afghanistan, and Guantanamo—including the use of painful stress positions, sexual humiliation, threatening prisoners with dogs, and shipping detainees to countries that practice torture. The American people hold fast to our most fundamental values. It is time for all branches of the Government to uphold those values as well. It is clear beyond a doubt that we cannot trust this Republican Congress or this Republican administration to conduct the full investigation that should have been conducted long before now. We have had enough whitewashes by the administration and Congressional committees.

Finally, to implement these values, we need a full and independent investigation of our current detention, rendition, and interrogation policies, including an honest assessment of what went wrong in Iraq, Afghanistan, and Guantanamo.

The investigation will require genuine candor and cooperation by all officials and agencies in the Bush administration, full accountability, a clear statement of respect for human rights, and a plan for protecting those rights throughout the Government. Only a truly independent and thorough investigation can restore America's reputation and put us back on the right path to the future.

The challenges we face in the post-9/11 world are obvious, and the stakes are very high. Working together, we have met such challenges before, and I am confident we can do so again. I urge all of my colleagues, on both sides of the aisle, to join to protect the rule of law, protect our soldiers serving abroad, and restore America's standing in the world.

Mr. President, this has never been a partisan issue. We have a number of conventions on torture and other commitments that this Nation has made under Republican Presidents and Republican leaders in the important committees of the Congress. We have had very clear leadership by Republicans and Democrats at other times in our history in terms of adhering to what they call the "golden rule." The golden rule is based on a very fundamental and important concept, which is we do not want others to treat our soldiers harshly and, therefore, we will not

treat other soldiers harshly. The principal point underneath that is, even if we treated people harshly and went through the process of torture, the information that you gain as a result of torture is rarely as good as what interrogators who are using and conforming to the Geneva Conventions get.

It is time for the United States to return to its better hours on this issue, and it is time that we not hold the privates and corporals accountable. But after 9 investigations by the Defense Department without a single prosecution, after we have more than 20 individuals who have actually been beaten or tortured to death and a determination by the administration that not a single person is going to face discipline, it is time that we take action.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, the regular order of business is the Transportation bill. We will proceed now. It is our desire to discourage people from coming down to the Senate floor until we have started receiving these amendments. There is no more important piece of legislation that we will consider this year than the Transportation bill. I am prepared to go through it section by section. I will certainly yield to the ranking minority member, Senator JEFFORDS.

Mr. JEFFORDS. I thank the Chairman. I have a brief statement I would like to put in.

Mr. JEFFORDS. Mr. President, when you live in Vermont, you must endure a long, hard winter.

To keep spirits up, a Vermonter will look for signs of spring, sometimes in the most unlikely places.

One leading indicator of brighter days ahead is a phenomenon known as the frost heave.

As temperatures rise, highways begin to buckle, producing humps in the road that rattle your teeth and mangle your shocks. Highway workers post bright orange signs to warn drivers of upcoming frost heaves. To a Vermonter, these signs are like the first flowers in bloom.

As the seasonal changes unfold, the frost heaves recede and the paved roads return to their more normal state. Unfortunately, that is often a state of disrepair. Bridges share this sorry condition, due to effects of weather, wear and tear.

The cure is major maintenance, reconstruction or replacement. But that costs money, a lot of money.

For more than the 3 years now, we have been working to reauthorize the highway program—because our transportation challenges are many.

The bill before us is a good one, it may not include all the funding it deserves, but it does move us forward. This bill addresses many very important issues facing our roads and highways. Safety is my highest priority.

Last year, Vermont experienced the highest number of fatalities on its

highways since 1998. Ninety-seven people died in automobile crashes, up from 69 in 2003.

Nationally, we have made real progress on highway safety over the last 10 years.

According to the U.S. Department of Transportation, the rate of fatalities has declined from 1.9 to 1.5 deaths per million vehicle miles traveled. But the number of fatalities has held steady at roughly 42,000 per year. That number is unacceptable.

This bill is not only an investment in our highways, it is an investment in public safety.

And we know congestion in this country is bad and getting worse. Congestion costs Americans more than \$69.5 billion annually in lost time and productivity; 5.7 billion gallons of fuel are wasted each year while motorists sit in traffic.

One way to reduce congestion is to move goods by freight and we are moving more freight in this country than ever before.

The forecast for future demand is daunting, with U.S. DOT projecting that the volume of freight will increase 70 percent by 2020.

This bill will expand freight capacity through new partnerships, investments and market financing techniques.

The highway program expired nearly 2 years ago, and the States have been operating under series of short-term extensions.

This has disrupted construction programs, delayed safety improvements and interrupted funding to transit operators.

It is time to act on this bill. The next sign of spring in Vermont after the frost heave is something known as mud season. You can tell from the name that it's not a lot of fun.

Moving a highway bill over the coming weeks will feel at times like mud season but at the other end a brighter day.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, I thank the Senator and certainly agree with his remarks.

Once again, the ranking member and I request anyone who has amendments to come down to the floor. We are open for amendments at this time on this very significant piece of legislation.

Let me go through section by section and explain what we have in the bill.

Section 1203 is freight transportation gateways, freight intermodal connections. I think it is important we realize—and we said this earlier this morning—back when the first legislation came to our attention—that was back during the Eisenhower administration—they were talking about roads and highways. Now this has become intermodal, to take care of all the needs in transporting people and goods around the country.

Freight movement in America is expected to grow dramatically in both volume and value over the coming decades. Throughout reauthorization, the

Environment and Public Works Committee heard concerns about inadequate freight facilities, insufficient capacity, and inefficient connections.

In December 2003, the GAO released a report on freight transportation that recommended strategies needed to address planning and financing limitations. The report noted that the major challenges to freight mobility all shared a common theme—congestion—including overcrowded highways and freight specific chokepoints. Additionally, the GAO reported two main limitations that stakeholders encounter in addressing these challenges. They first related to the limited visibility that freight projects receive in the planning and prioritization process. SAFETEA directly addresses this problem by creating a freight transportation coordinator at the State level to facilitate public and private collaboration in developing solutions to freight transportation and freight gateway problems. The bill also ensures that intermodal freight transportation needs are integrated into project development and planning processes.

The second limitation reported by the GAO was that Federal funding programs tend to dedicate funds to a single mode of transportation or non-freight purpose, thus limiting freight project eligibility among some programs. SAFETEA, or the bill we have before us today, addresses this problem by making intermodal freight projects eligible for STP and NHS funding.

The Freight Gateways Program under this bill promotes intermodal improvements for freight movement through significant trade gateways, ports, hubs, and intermodal connectors to the National Highway System. States and localities are encouraged to adopt new financing strategies to leverage State, local, and private investments in freight transportation gateways, thus maximizing the impact of each Federal dollar. The Freight Gateway Program is funded from a set-aside of 2 percent of each State's NHS proportions. However, in the spirit of State flexibility and ensuring that funds go to the areas of the greatest need, a State is not required to spend 2 percent of the NHS apportionment if they can certify to the Secretary that their intermodal connectors are adequate.

I think my colleagues see all throughout this bill that we are granting more latitude for the States to determine their fate. It is a recognition that the States know their needs better than we know them in most cases. Consequently, if they can do something better, why dictate something from the Federal Government when they are able to do a better job themselves.

Section 1204 is construction of ferry boats and ferry terminal facilities. TEA-21 established a discretionary program for the construction of ferry boats and ferry terminal facilities. This bill creates a new permanent section in title 23 for this TEA-21 pro-

gram. The program is designed to provide for the important construction of ferry boats, ferry terminals, and approaches to facilities that are part of the Nation's highway system and constitute "last mile" connections for ferries.

Section 1205 is designation of interstate highways. As part of this bill, Interstate Highway 86 in the State of New York is specifically designated as the Daniel Patrick Moynihan Interstate Highway in memory of our late colleague and friend who was not only a transportation safety expert but served his country in the House and Senate for many years.

It is important at this time to recognize that Daniel Patrick Moynihan was also the chairman of this committee that accomplished so much in the earlier years. And unbeknownst to most people on the committee, Daniel Patrick Moynihan was from my city of Tulsa, OK. So I am very supportive of this portion of the bill to make this designation for him.

This section also designates a segment of Interstate Highway 86 near towns of Painted Post and Corning in New York State as the Amo Houghton Bypass in recognition of the former Congressman's work in making I-86 possible. It is interesting, we have a Democrat and Republican getting these designations. It happens that I was elected in 1986 with Amo Houghton. He has made great contributions, and I am sure this is a very appropriate tribute to make to former Congressman Amo Houghton.

Section 1301, the Federal share. SAFETEA continues the statutory provisions that lay out what the Federal share for a highway project will be for different States based on the amount of Federal land within the States. The Federal share provisions of the current law use a sliding scale which permits States with large portions of Federal land to match Federal funds with fewer State dollars. This is understandable because the Federal lands would consume a good portion of some States, States such as New Mexico. Due to the decreasing taxing ability of States with high percentages of Federal lands, these States are given access to a higher Federal contribution for highway projects within their States.

The bill before us today modifies this provision slightly to simplify the calculation used to determine the Federal share rates that apply to each individual State. I might add, in this respect, this is something we found agreement with from both the States with large amounts of Federal land and States, such as my State of Oklahoma, that has a very small amount.

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. INHOFE. 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. INHOFE. Mr. President, as we go through section by section, we talked about congestion, but we neglected to elaborate because this is one of the more serious problems we have now. According to the Department of Transportation, time spent in congestion increased from 31.7 percent in 1992 to 33.1 percent in 2000. Based on this rate, a typical rush hour in an urbanized area is 5.3 hours a day. The problem is not simply in urban areas. Cities with populations less than 500,000 have experienced the greatest growth in travel delays, according to the DOT.

Very often we do not talk enough about the cost. Right now we are sensitive to the cost of fuel. Yet we can see traffic stopped, with engines idling. This is another factor that has to be entered into the equation.

Increase in capital investment is one way to address congestion. We must also consider ways to better manage existing systems. This bill proposes a national goal of real-time traffic information available for the entire Nation. This goal, while ambitious, is important because we need to reorient our thinking to recognize the importance of allowing users of the system to utilize the system more efficiently, specifically by providing travelers with usable information that will enable them to select the right travel alternative plans.

The biggest and fastest growing cause of congestion in our urban centers is bottlenecks around port and intermodal facilities. Frankly, traffic is expected to grow dramatically in volume in the coming decades with increased international trade. Movement toward the just-in-time economy, freight shipping, will take on heightened importance.

Recently I visited with representatives of the Alameda Corridor Transportation Authority and they shared with me that more than 40 percent of all waterborne freight container traffic in the U.S. ports is handled by the Ports of Los Angeles and Long Beach. My first thought was, how does this trade through the Ports of Los Angeles and Long Beach affect my constituents in Oklahoma? The answer surprised me. It is estimated that over 100,000 jobs in Oklahoma are attributable to the trade from these ports. That is one example of two ports. I suspect if I had statistics from other ports, I would find that economic development in Oklahoma is tied as closely to them, as well.

We are part of a global economy. This illustrates more than anything, goods and services produced in Oklahoma are being shipped all over the world. Likewise, Oklahomans are purchasing goods and services from countries all over the world. The simple fact is that trade is the engine driving our economy. We cannot ignore the infrastructure needs.

It is worthwhile stating that one of the best kept secrets is we have actually a port that goes all the way to Oklahoma, the port of Catoosa in my hometown. I remember many years ago when I was serving in the State Senate when we were trying to get the message out that we actually are navigable, we have a port that comes all the way up. No one knows it. They do not think about that in Oklahoma. It goes up the Mississippi River from the gulf and comes across the Arkansas River and into Oklahoma. At that time we decided we wanted to let people know of our great port and the navigation that cost billions of dollars to reach all the way to Oklahoma, the most inland port, only to find the way to do this is to demonstrate it. I actually arranged to take over from the Navy a very large World War II surplus submarine called the USS Batfish.

All my political adversaries were saying, we will sink INHOFE with this Batfish. It will never make it all the way to Oklahoma. We were able to bring it all the way. Now proudly displayed in Muskogee, OK, is a World War II submarine that came all the way up the navigation route. So I think it is important. I thought I would throw that out in case somebody did not know it.

Section 1302 is the transfer of highway funds and transit funds. In an effort to provide flexible transportation funding, SAFETEA clarifies—by the way, SAFETEA is what we will refer to during the consideration of this bill. This name could be subject to change when we get to conference. But this bill clarifies that title 23 funds may be transferred by the Secretary to the Federal Transit Authority for all projects except transit capital projects. It also allows States to transfer their funds to another State or a Federal agency at their request, if the funds are used in the same manner and for the same purpose as they were originally authorized.

Section 1303 is the Transportation Infrastructure Finance and Innovation Act, or TIFIA. This is very significant. We talked about it a little bit earlier, that people come up with new ways of approaching the funding for transportation, and ways that are innovative, ways that are partnering with the private sector, that can be much better than the way we have been doing business for the last 40 years.

The Transportation Infrastructure Finance and Innovation Act, TIFIA, was established for the first time in TEA-21 to provide Federal credit assistance for major transportation investments. The TIFIA program has proven to be an innovative and successful addition to the conventional grant-reimbursable highway program. Following the success of the TIFIA program under TEA-21, and considering input from stakeholders and recommendations from the administration, the committee bill has made a few changes to the TIFIA program to

expand its scope and increase its usability.

The amount of the Federal credit assistance cannot exceed 33 percent of the total project costs. TIFIA offers three types of financial assistance for these large projects: first, direct loans; second, loan guarantees; and, third, standby lines of credit. The bill also lowers the threshold cost for eligible projects from the TEA-21 level of \$100 million to \$50 million to make the TIFIA assistance accessible to a greater number of large highway projects.

Projects are also eligible for TIFIA assistance when costs are anticipated to equal or exceed 20 percent of the Federal highway funds apportioned to that particular State. With the increased emphasis this bill places on freight mobility, the definition of "eligible freight-related projects" is expanded to allow a group of freight-related projects to be eligible, each of which individually might not meet the threshold requirements for TIFIA credit assistance.

Section 1304 is facilitation of international registration plans and international fuel tax agreements. In response to issues surrounding commerce from Mexico, SAFETEA gives the Secretary of Transportation discretion to provide financial assistance to States participating in the International Registration Plan, the IRP, and the International Fuel Tax Agreement. These States incur certain administrative costs resulting from their service as a home jurisdiction for motor carriers from Mexico.

The International Fuel Tax Agreement and the International Regional Plan are agreements among various U.S. States and Canadian provinces that facilitate the efficient collection and distribution of fuel use taxes and apportioned registration fees among each member jurisdiction. Under both programs, each motor carrier designates its home State or province as the jurisdiction responsible for collecting fuel use taxes and fees.

Since the implementation of NAFTA, the Mexican Government imposes and collects fuel taxes and registration fees differently from the United States and Canada. The National Governors Association is currently evaluating Mexico and its participation in these two programs. In the interim, Mexican motor carriers may use individual U.S. States or Canadian provinces as their home jurisdiction.

Mr. President, I pause here to say to the majority leader and the minority leader, we appreciate very much our ability to go ahead and bring this bill to the floor. Again, we are asking Members, if they have amendments, bring them down. We are eventually going to run out of time, and we want to consider these amendments in a timely fashion. I think we are pressing it right now. We are going to try very hard to have this new bill passed before the expiration of the extension.

I might add, this is the sixth extension we have had, and it does expire on

May 31. We want an opportunity to be able to handle this legislation so we will not have to ask for another extension.

It seems to me—and I have been asked a lot of questions as to what our timing looks like right now—we ought to be able to handle amendments through the remainder of the week. Then we will go into a 1-week recess. At the conclusion of that recess, on Monday, the 9th of May, we will continue to look at amendments. It would be my intention to file a cloture motion so we can get to a final vote. Certainly, we have had adequate time, and there does not seem to be that much interest right now in coming down to the floor and offering amendments. That would enable us to send this bill to conference sometime toward the end of that week of May 9. Then we would get to the conference.

It has been our experience in the past that if it is done properly, we ought to be able to get the conferees to agree to some compromises, if necessary, between the House bill and the Senate bill. They are quite different. We have explained the basic differences, and the philosophy of the House, the philosophy of the Senate. Ours, I believe, is a more responsible way of looking at it. Having served 8 years in the Transportation Committee over in the House, at that time that seemed to be something that was workable.

But we ultimately have to come to an agreement. We ultimately have to go to conference and iron out the differences. We have a lot to consider in conference. It is my expectation we will go to conference with an amount that will exceed the current limitation of the bill that is before us today, that amount being \$284 billion over the remainder of the 6-year period. However, I do not know that to be the case. If it is the case, then we will have to handle that in conference and make that determination.

In conference, we are also going to have to be looking at the approach to a number of projects. You hear people talking quite often, saying this is a big highway bill, there is a lot of pork in it. I tell you, there is no pork in this bill. There are no projects in this bill. There are only two projects in the entire bill, which consists of hundreds and hundreds of pages. Consequently, it is done on formula. We have talked about the formula, all the considerations that are made by the formula: the donee status, the donor status, the growth factors that go into the various States, the densely populated States, the sparsely populated States. All make for a very equitable approach.

I believe we have a bill that will be able to be passed and sent to conference, and we will be able to come back from the conference and then have it signed into law by the of May 31. If we do not do that, and if we ask for another extension, we will be at the time of year for the peak construction season, which would merely mean we

would lose very valuable time. I am sure in the States of Oklahoma, South Carolina, and other States, that is a very important consideration.

With that, I anticipate there may be more Senators who wish to come down and offer amendments. I am hoping they will at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

#### TRIBUTE TO MR. PEYTON HEADY

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a fellow Kentuckian who has done the important work of keeping a piece of the Commonwealth's history alive by chronicling the events of the county he is proud to call home, Union County.

Mr. Peyton Heady has written and published 25 books that cover some aspect of the county's history. He has a particular interest in how people from Union County were involved in the Civil War. One such story involves Tom Henry, a Union County native who managed to stop the notorious outlaws, Frank and Jesse James from robbing a bank in Morganfield. Mr. Henry convinced the James brothers that he had friends who had money in the bank and they wouldn't want to lose it. This story could have been lost in the annals of history, but it won't be because of Peyton Heady's thorough research and documentation.

Another piece of Union County history that Mr. Heady has taken an interest in is that of Camp Breckinridge. As a former clerk in the civil engineering division at the camp during World War II, Mr. Heady has first-hand experiences to share and draw from. Later this week he will be honored by the Earle C. Clements Job Corps Center, located on Camp Breckinridge property, for keeping a record of the history of Camp Breckinridge. The Center will

name one of the camp administration buildings the Peyton Heady Building.

I urge my colleagues to join me in giving Mr. Heady the thanks of a grateful Commonwealth and a grateful Nation. Thanks to his dedication, the history of Kentucky shall be preserved. I ask unanimous consent to have printed in the RECORD an article from The Henderson Gleaner "Making History: Chronicler of Union County Events Honored for Keeping Memories Alive," about Mr. Heady's contributions to his community.

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

[From the Henderson Gleaner, Mar. 13, 2005]  
 MAKING HISTORY: CHRONICLER OF UNION COUNTY EVENTS HONORED FOR KEEPING MEMORIES ALIVE

(By Judy Jenkins)

Tom Henry was one of those bigger than life characters who would, if he were alive today, be gracing the cover of "People" magazine and artfully answering questions lobbed at him by Larry King.

Tom was a handsome Union County native who served as a captain in the Confederate army and, legend has it, managed to earn the respect of those infamous outlaws Frank and Jesse James. The James brothers spent a considerable amount of time in Morganfield during the Civil War, and at one point Frank—the story goes—was planning to rob a bank there.

Our hero Tom learned of those plans and convinced Frank to forego the robbery by telling him that he had some good friends who had money in that bank and he'd sure hate for them to lose it.

On another, darker occasion, a Yankee colonel was captured and tied to a tree. Apparently a couple of the captors were planning a short future for the Northerner, but Tom informed them they'd have to walk over his own dead body to harm the colonel.

In a twist that Hollywood would love, Tom was captured and after the war was taken to Louisville to stand trial for his life. The Yankee colonel, by amazing coincidence, walked into the courtroom, recognized Tom as the captain who saved his life, and got the Union Countian released.

That's just one of the many accounts in Peyton Heady's 1985 "Union County History in the Civil War." The 252-page book makes what could be dry, dusty descriptions of past events come alive for the reader.

Peyton, who wrote the history because he was concerned that little had been written about Union County's involvement in the Civil War, noted that about 60 percent of the county's population supported the Confederate cause and families were often divided.

There were, for instance, the Lambert brothers who fought in opposing armies, survived the war and never again spoke to each other—but are buried side by side in a Union County cemetery.

The book is one of 25 written and published by Peyton over the decades, and they all cover some aspect of Union County history. Some are genealogical volumes and some record the county's cemeteries, including ob-

scure resting places. While surveying those cemeteries, the retired U.S. Postal Service employee found the graves of seven Revolutionary War soldiers with monuments intact.

Peyton, who was a clerk in the civil engineering division at Camp Breckinridge during World War II, also wrote the history of the sprawling camp that contained 36,000 acres, had housing for 30,000 troops and 10,000 additional personnel, boasted its own utility systems and airstrip, had 12 dispensaries and hospitals, nearly seven miles of railroad, a simulated "Japanese training village," four movie theaters and much, much more.

Four divisions from that Army post fought in the Battle of the Bulge, and the camp contributed a number of major units that played a significant role in breaking down the Nazi fortress.

It was at the camp that Peyton watched a young African American soldier named Jackie Robinson play baseball, and it was there he supervised 150 German prisoners of war.

For the price of a box of Cuban cigars, one of those prisoners painted Peyton's portrait. The painting hangs in the Morganfield home of Peyton and Cecilia, his wife of 53 years and mother of their two children, James Heady and Rebecca Heady Gough.

On April 28, Peyton no doubt will feel he's come full circle in his life. On that day, one of the camp administration facilities will be named the Peyton Heady Building. The 11 a.m. dedication ceremony is part of the 40th anniversary celebration of the Earle C. Clements Job Corps Center, which is on the Camp Breckinridge property.

Peyton, 79, is being saluted largely for his determination to keep the history of Camp Breckinridge from passing into obscurity. He opted to undertake that history when he learned that government archives contained a one-page description of the giant complex that was last used as a military installation in 1963.

He is touched by the upcoming honor, but he'll have you know that the thousands of hours of patient research and writing his books weren't for praise or glory. "I just think if you're going to live in a town and raise your children in a town you should do something to make it better," he says.

Things he's done include working with Morganfield's Little League program for more than two decades.

Peyton is on a walker now and doesn't often leave his home, but he isn't complaining. "I'm a happy man," he says. "I'm happy with my marriage (which naysayers said would never work because Cecilia's Catholic and he's Methodist), happy with my family and happy with my life."

His histories have sold well and seven or eight have been reprinted, but Peyton hasn't gotten rich from the sales.

"I didn't write them for profit," he says. "I wrote them for history."

#### TRIBUTE TO LUTHER DEATON, JR.

Mr. McCONNELL. Mr. President, I rise today to commend an accomplished Kentuckian and good friend,

Mr. Luther Deaton, Jr. A native of Breathitt County, KY, Mr. Deaton is an esteemed banker, revered community leader, inspiring mentor, and caring father.

Luther began his career in the banking industry as an assistant manager and teller with Central Bank & Trust Co. in Lexington in 1978. Little did he know that initial exposure would lead to a lifetime of professional achievements. Possessed with a resolute and unshakeable determination to advance his employer's cause, Luther rapidly rose through the company's ranks. In January 1996, the Board of Directors promoted Luther to president and CEO of Central Bank, and in March 2002, he was named chairman of the bank. He also serves as the chairman of Commerce Lexington, Inc., which seeks to expand and attract economic development in central Kentucky.

While Central Bank has flourished under Luther, it is his leadership presence in central Kentucky I admire most. His formidable array of accomplishments directly results from his passion to improve the quality of life for his fellow Kentuckians. In September 1997, the Lexington Theological Seminary named Luther as the second recipient of the John R. Wooden Award, an honor given to layman whose life shows commitment to, and active involvement in, a faith community and evidence of putting one's faith to work for the welfare of humankind. In 2001, he was the recipient of the Governor's Economic Development Leadership Award for the State of Kentucky. Additionally, the Junior Achievement of the Bluegrass inducted Luther into the 2004 Bluegrass Business Hall of Fame, due to his labor and vision to improve the quality of life in the Bluegrass area.

Later this month, Luther will be the honoree at the Volunteers of America Tribute Dinner in Lexington, KY. Here the community will have an opportunity to thank him for all of his contributions and honor his achievements.

Mr. President, today I ask my colleagues to join me in honoring and recognizing one of Kentucky's pre-eminent professionals, Mr. Luther Deaton, Jr.

#### ROSEMARY VITAVEC

Mr. REID. Mr. President, I rise today to congratulate Rosemary Vitavec, a third grade teacher at Walter Bracken Magnet School in Las Vegas, who was selected as one of 95 winners from across the Nation for the Presidential Award for Mathematics and Science Teaching for 2004.

The awards were created in 1983 and are administered by the White House and the National Science Foundation. Each year the program recognizes outstanding mathematics and science teachers from across the United States and four U.S. jurisdictions for their contributions in the classroom and to their profession.

This distinction highlights the fundamental importance of math and science education in preparing our Nation's students for the global economy. It also highlights the outstanding work done at Bracken Magnet School in emphasizing math and science learning with technology.

Mrs. Vitavec, a 23-year veteran, has taught in the Clark County School District for 12 years.

I salute Rosemary Vitavec for her service and dedication to the students of Clark County, and extend my best wishes for a successful future.

#### SCHOOL SAFETY PATROLLERS

Mr. REID. Mr. President, I rise today to recognize several young people who were recently selected by the American Automobile Association to receive special awards for their work as school safety patrollers.

More than 500,000 students in 50,000 schools across the country participate in AAA's School Safety Patrol program. These young people have taken on the important responsibility of making the streets around their schools safer for their classmates. Though their responsibilities are often routine, the patrollers on occasion must place themselves in harm's way in order to save lives. It is my honor today to recognize six students who were selected to receive the AAA Lifesaver Award for their selfless and heroic actions in fulfilling their duties as patrollers as well as the National Patroller of the Year.

The first AAA Lifesaver Award recipient is Jessica Zeiter, a 10-year-old student at Huron Park Elementary School in Roseville, MI. On February 9, 2004, Jessica was on a patrol when a pickup truck driver sped on icy snow in heavy traffic. The driver probably could not have stopped even if he had seen the small first grade student step into the street, but fortunately Jessica quickly grabbed the student by the coat and pulled her back to safety. Others who were at the crosswalk that day thought the child was going to be hit and were shocked that she was saved.

The second AAA Lifesaver Award recipient is Michelle Grimm, a 12-year-old student at Weems Elementary School in Manassas, VA. On March 5, 2004, a kindergarten student fell off of the sidewalk and was lying directly in the path of a school bus. The student was struggling to get up but could not regain his balance because of his heavy book bag. The bus driver did not see the child lying in the street, but Michelle ran to the student's aid, helping him out of the way of the approaching bus.

The third AAA Lifesaver Award recipient is Estefan Santos, a 10-year-old student at Jackson Road Elementary School in Silver Spring, MD. On September 10, 2004, a 6-year-old child broke free from his sister's care and ran to cross the street towards her father who

was waiting in his car. Estefan realized that the 6-year-old was not going to stop at the corner and held him back from the approaching traffic. Though bitten and kicked while holding the 6-year-old back, Estefan undoubtedly saved the child's life that day.

The fourth AAA Lifesaver Award recipient is also from Maryland. Her name is Pytrce Avonna Farmer, and she is a student at Eva Turner Elementary School in Waldorf. On October 4, 2004, a 6-year-old child was waiting on the street curb under Pytrce's direction. The child's mother, however, moved her car forward into the second lane of traffic, and the child stepped into the street without noticing another car approaching. Pytrce acted quickly and bravely to pull the child from the path of the car. The child's mother has said that her son would not be alive today if not for Pytrce.

The fifth AAA Lifesaver Award recipient is Jared Smith, an 11-year-old student at Combee Elementary School in Lakeland, FL. On January 7, 2005, a 7-year-old student dashed past the group of children who were waiting for a van to pick them up, darting out into the path of the van. Fortunately, Jared stopped her before she was hit, though the van was only a few feet away.

The sixth AAA Lifesaver Award recipient is Naomi Wall, an 11-year-old student at Dan Emmett Elementary School in Mount Vernon, OH. On March 19, 2004, a 5-year-old student named Braden walked into the road, obeying a walk sign though against his sister Naomi's patrol flag telling him to stop. At the same time, a car had run a red light and was headed right for a car going through the intersection. Had Naomi not held her brother back by the arm, he would have been in the middle of the crash.

In addition to honoring these six brave patrollers, AAA also recognizes one student as National Patroller of the Year for demonstrating leadership qualities, strong academic performance, and civic involvement. This year, the National Patroller of the Year is Deanna Constantino, a fifth grader at Cross Street School in Williston Park, NY. Deanna is a member of the student council, serves on the school newspaper, has been a Girl Scout for 4 years, and participates in charitable fundraising activities through her school. Deanna, like all the other safety patrollers recognized by AAA, is clearly an impressive young person with tremendous potential.

I also thank AAA for making the school safety program possible. The program has helped save many lives over the years and has made our schools safer for our students, though, as the stories of the Lifesaver Award recipients demonstrate, the streets around our schools are not safe enough. That is why I have worked for the last 2 years to create a national Safe Routes to School program. This program would fund safety improvements on roads near schools so that children



can safely walk or ride their bicycles to school. I hope Congress passes my program this year, but whether or not it does, I am comforted to know that 500,000 AAA patrollers across the Nation will be working hard to keep the streets around our schools safe.

#### TRIBUTE TO SENATOR JEFFORDS

Mr. LEAHY. Mr. President, I spoke on the floor last week to briefly recount some of the many reasons that Vermont and the Nation will miss the leadership, the independence and the decency of Senator JIM JEFFORDS when he chooses to retire from the Senate at the end of his current term.

Since then there have been many news articles and editorials that have also catalogued and described various aspects of JIM JEFFORDS' distinguished legacy. As is often the case when he writes about the events and issues of the day, Emerson Lynn, the publisher of the St. Albans Messenger in my home State of Vermont, did this particularly well. I would like to share his editorial with the members of the Senate.

I ask unanimous consent that Emerson Lynn's recent editorial about Senator JEFFORDS be printed in the RECORD

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

[From the St. Albans Messenger, Apr. 21, 2005]

#### JEFFORDS LEAVES BEFORE HIS TIME, ACCOMPLISHES MUCH

Senator Jim Jeffords, who turned Washington's political world upside down 4 years ago with his defection from the Republican Party, Wednesday turned Vermont's political world upside down with his announcement not to seek reelection.

He said it was time to begin a new chapter in a life that for 38 years has been dominated by an election cycle that began as a state senator from Rutland in 1967, to Attorney General in 1969, to the U.S. House of Representatives in 1974 to the United States Senate in 1988. He has represented Vermont in one office or another for almost four decades. If that is a chapter, most our lives can be explained in a paragraph.

Wednesday's announcement was the sad affirmation of what many of those close to the Senator had feared: his health is less than optimum and his wife, Liz, is battling cancer and about to undergo a third round of chemotherapy. At some point the question is more akin to the clap of thunder to our better senses: is being senator worth one's health; is it worth not being able to pay the proper attention to one's wife who is battling cancer, and, is the twilight of one's life best spent with one's children, and an expected grandchild, or with the churlish likes of Tom DeLay and the hard right that have stolen a sense of civility and class from the Senate? For anyone not suffering from the hubris that often comes attached to the position, the choice is clear and Jim Jeffords made that choice with grace and perspective.

He also did the honorable thing politically. He announced his retirement with sufficient time for both parties to give thoughtful consideration as to how to approach the November 2006 race. He could have waited. He didn't, and in so doing reinforced the integrity that has characterized his career.

And his has been a remarkable career. The history books will undoubtedly begin their biographies noting the impact of his May, 2001 decision to bolt from a Republican party he said had left its moorings. But the senator's accomplishments extend far beyond one's party allegiance. As Vermont's attorney general he played a pivotal role in the implementation of Act 250, and the law to outlaw billboards. No Vermont politician has had a greater impact on dairy farming, nor does any politician have a better understanding of the industry and its needs. There isn't a single bit of legislation dealing with special education [or education in general] that doesn't have his fingerprints on it in one fashion or another. The same can be said of his years in the Senate when dealing with the environment. He was also a passionate defender of the arts. What he has accomplished will endure beyond fame's notoriously short life.

It's axiomatic that this was not the choreographed conclusion of his choosing. His desire was to win reelection as an independent, thereby vindicating a personally wrenching decision to leave the Republican Party. Life's bows cannot be so neatly tied and those who try find them but ropes of sand that disintegrate in the twisting.

Sadly, we are in an age that exploits one's natural fissures as though they were fatal flaws of one's character. One's vulnerabilities are extrapolated into insurmountable deficiencies, as if there were only sun and no shadows, all light, no darkness. The senator knows only too well how that game is played. The Yale/Harvard educated man will be known more for a twisted tongue than a clear mind, as if being articulate were a higher calling than being thoughtful.

In the end, it's not what others think of you but the joy you carry in your toil. And, in the end, it is Mr. Jeffords that wears the smile, not his accusers. He is like Sisyphus in Albert Camus' "Myth of Sisyphus", the character in Greek mythology who was condemned for eternity to roll a boulder up a hill, only to have it roll back down again. Camus made the convincing argument that Sisyphus' lot was not tragic, but uplifting. He could smile at the absurd because he understood it as such.

Camus concluded by writing: "I leave Sisyphus at the foot of the mountain! One I always finds one's burden again. But Sisyphus teaches the higher fidelity that negates the gods and raises rocks. He too concludes that all is well. This universe henceforth without a master seems to him neither sterile nor futile. Each atom of that stone, each mineral flake of that night filled mountain, in itself forms a world. The struggle itself toward the heights is enough to fill a man's heart. One must imagine Sisyphus happy."

We imagine Mr. Jeffords' heart is full and that he is happy. He should be remembered as such.

The clamor to claim his political perch has begun and din, at times, will overwhelm. What Vermonters can hope for is that all followers choose Mr. Jeffords' path of integrity and independence.

#### 90TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mrs. FEINSTEIN. Mr. President, I rise today to acknowledge and commemorate April 24, 2005, the 90th anniversary of the beginning of the Armenian Genocide and to urge all Americans to join together to ensure that these crimes never happen again.

On April 24, 1915, the Ottoman Empire began arresting hundreds of Arme-

nian intellectuals, most of whom were subsequently executed. What soon followed can only be described as a tragedy that shocked the human conscience: by some estimates, over a million Armenians were killed, and another 500,000 were driven from their homes. These events marked the 20th century's first experience with such atrocities, and, sadly, they would not be the last.

Maya Angelou, the famous poet and civil rights activist once said:

History, despite its wrenching pain, cannot be un-lived, but if faced with courage, need not be lived again.

Indeed it is our duty to remember this horrific tragedy, and face the crimes of humanity with unflinching determination, courage, and moral fortitude so that they never happen again.

As a country founded on the principles of justice, equality, and liberty, the United States must take a leadership role in preventing genocide.

I am proud that the Armenian American community in my home State of California—over 500,000 strong—has taken such a leadership role in ensuring that the U.S. lives up to its values by acknowledging the crimes of the past and taking action against the crimes of the present and future. Their determination and perseverance is a testament to the human spirit and the ability to overcome injustice and build a better tomorrow.

Today, we stand with the Armenian American community in commemorating the start of the Armenian Genocide, and together we stand with those around the world who face persecution and even death simply because of who they are. They must know they are not alone and those who commit these crimes must know we are watching.

We will never forget the Armenian Genocide as we look to the future with courage and determination.

#### FEDERAL REFUSAL CLAUSE

Mr. KENNEDY. Mr. President, I oppose the Federal refusal clause. The Republican leadership was wrong to include such a broad refusal clause in the fiscal year 2005 Omnibus Appropriations bill. The clause was never voted on by the Senate Appropriations Committee; it was inserted into the bill behind closed doors.

The clause would allow health care firms to refuse to comply with existing Federal, State, and local laws and regulations that pertain to abortion services, counseling, and referrals.

Supporters of the clause claim it simply clarifies existing law. But far from clarifying it, sweeping new changes would be enacted that would be devastating to women's health.

The reality is that no Federal law forces individuals to provide abortion care. The Church amendment, adopted in 1973, enacted a new refusal clause. It explicitly protects individuals who object to providing abortion because of their religious beliefs or moral convictions. Broader refusal clauses, such as

the Federal refusal clause, exempt a wide range of organizations, including health plans and hospitals, most of which not only have a secular purpose but also employ and serve individuals who do not share those organizations' religious beliefs.

The Federal refusal clause also discourages States from enforcing its own policies, laws and regulations to protect access to abortion services and information. Republicans continually attack Democrats as proponents of big government who undermine State rights. Yet that is exactly what the Federal refusal clause does.

Forty-six States, including Massachusetts, already have laws that permit certain medical personnel, health facilities, and institutions to refuse to participate in abortion because of their moral or religious beliefs.

We don't need the Federal refusal clause to protect individuals and health care organizations that oppose abortion, we already have that. It exists in both Federal and State laws. Proponents want the Federal refusal clause for one reason—to deny access and information to as many women as possible.

Health care corporations now have the right to gag their doctors and other health care providers. The clause defines "discrimination" as any requirement that a medical service provider inform a woman about her option to seek an abortion—or even refer her to another plan for that information. It's ridiculous to say that giving a woman full information about her medical options is discrimination.

The Federal refusal clause also restricts low-income women's access to abortion services, including information about abortion. It could prohibit the Federal Government from enforcing the requirement that Title X funded family planning clinics provide a woman facing an unintended pregnancy with an abortion referral when she requests one. We will be taking a giant step backward if we don't repeal this refusal clause.

In addition, under the "Hyde Amendment," States are required to provide Medicaid coverage for abortions in cases of rape, incest, or where pregnancy endangers a woman's life. The Federal refusal clause, however, could prevent states from requiring that Medicaid HMOs provide or pay for these abortions.

Current law states that low-income women should not be denied critical medical care. Why do we want to change that? What kind of signal are we sending? Women who have suffered through the trauma of rape or incest deserve our help, not an extra burden.

The Emergency Medical Treatment and Active Labor Act guarantees that a woman who needs an emergency abortion procedure to save her life won't be turned away. Yet the Federal refusal clause could allow hospitals to turn away women in these dire circumstances. For a woman in a rural

area, with only one hospital, her life itself may be in danger if the hospital refuses to admit her.

It is wrong to deny women access to necessary and urgently needed medical procedures. The Federal refusal clause should never have been included in the fiscal year 2005 Omnibus Appropriations bill, and I commend Senator BOXER for speaking against this provision.

#### ADDITIONAL STATEMENTS

##### JUST BORN, INC.

• Mr. SANTORUM. Mr. President, today I would like to congratulate Just Born, Inc. in Bethlehem, PA, on an outstanding accomplishment, shipping Peanut Chews nationwide for the first time. Pennsylvanians should be honored to have a wonderful company such as Just Born in our State, and I join in congratulating Just Born on their recent accomplishment.

Until the Spring of 2003, Peanut Chews were produced by the Goldenberg Candy Company. The Goldenberg Candy Company was founded in Philadelphia in 1890 by David Goldenberg and called D. Goldenberg, Inc. Beginning as a retail confection business, which produced and sold fudge, marshmallow, lollipops, and chocolates, Goldenberg's also created a walnut molasses confection that later became the foundation for the Peanut Chews recipe.

As we all know, Peanut Chews offer a unique combination of a chewy peanut and molasses based center with a dark chocolate coating, making for a tasty candy. Just stop by my desk on the Senate floor to see for yourself.

Peanut Chews were developed during World War I and used by the U.S. military as a ration bar. The high energy, high protein recipe and unique taste made it popular with the troops. Following the war, Peanut Chews were first sold in the Philadelphia area of Pennsylvania. However, their popularity soon spread to New York, Baltimore, and Washington, DC.

In the 1930s, Peanut Chews were sold under the brand name Chew-ets and were often sold in movie theaters. The name stuck until 1999 when the Goldenberg's changed the packaging and the name of Chew-ets to Milk Chocolatey Peanut Chews.

Just Born purchased the Goldenberg Candy Company in 2003, adding the Goldenberg's 61 associates to the already growing Just Born family. Just Born produces two million Peanut Chews candy pieces every day.

This month, April 2005, Peanut Chews will be launched nationally, for the first time reaching beyond to the East Coast. This is quite an achievement, and I send Just Born my best wishes in the future as their company continues to expand.●

##### ONCOLOGY NURSING DAY AND MONTH

• Mr. BROWBACK. Mr. President, I rise today to pay tribute to oncology nurses. May 1 marks the beginning of the 10th annual Oncology Nursing Day and Month and this year marks the 30th Anniversary of the Oncology Nursing Society.

As co-chair of the Senate Cancer Coalition, I know oncology nurses play an important and essential role in providing quality cancer care. These nurses are principally involved in the administration and monitoring of chemotherapy and the associated side effects patients experience. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial, and supportive care to patients and their families. In short, they are integral to our Nation's cancer care delivery system.

I congratulate the Oncology Nursing Society, ONS, on its 30th anniversary. ONS is the largest organization of oncology health professionals in the world, with more than 31,000 registered nurses and other health care professionals. Since 1975, ONS has been dedicated to excellence in patient care, teaching, research, administration, and education in the field of oncology. The society's mission is to promote excellence in oncology nursing and quality cancer care. To that end, ONS honors and maintains nursing's historical and essential commitment to advocate for the public good by providing nurses and health care professionals with access to the highest quality educational programs, cancer-care resources, research opportunities and networks for peer support. ONS has three chapters in my home State of Kansas, which help oncology nurses provide high-quality cancer care to patients and their families in our State.

Cancer is a complex, multifaceted, and chronic disease, and people with cancer are best served by a multidisciplinary health care team specialized in oncology care, including nurses who are certified in that specialty. Each year, in the United States, approximately 1.37 million people are diagnosed with cancer, another 570,000 lose their battles with this terrible disease, and more than 8 million Americans count themselves among a growing community known as cancer survivors. Every day, oncology nurses see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment.

Over the last 10 years, the setting where treatment for cancer is provided has changed dramatically. An estimated 80 percent of all cancer patients receive care in community settings, including cancer centers, physicians' offices, and hospital outpatient departments. Treatment regimens are as complex, if not more so, than regimens

given in the inpatient setting a few short years ago. Oncology nurses are involved in the care of a cancer patient from the beginning through the end of treatment, and they are the front line providers of care by administering chemotherapy, managing patient therapies and side effects, working with insurance companies to ensure that patients receive the appropriate treatment, provide counseling to patients and family members, in addition to many other daily acts on behalf of cancer patients.

I thank all oncology nurses for their dedication to our Nation's cancer patients, and commend the Oncology Nursing Society for all of its efforts and leadership over the last 30 years. They have contributed immensely to the quality and accessibility of care for all cancer patients and their families, and I urge my colleagues to support them in their important endeavors.●

#### HONORING DANVILLE HIGH SCHOOL

● Mr. PRYOR. Mr. President, it is with the greatest pleasure that I rise today to honor Danville High School which was recently selected to receive the 2005 GRAMMY Signature School Enterprise Award. The GRAMMY Signature School Program recognizes the top public high schools in the Nation that have made an outstanding commitment to music education during the school year. The GRAMMY Foundation will award Danville High School \$20,000 to benefit its music program.

I commend the Danville Music Department personnel—Alana Smith, head band director and department head; Julianna Sommers, choir/elementary director; and Julie Rutherford, assistant band director, for their vision, but most of all for their commitment to provide such a quality music education to the young people of Danville.

I would also like to recognize the following students for their contributions to the Danville High School Music Program: Jessica Harris, Dana Mendoza, Jasimen Fedison, Jessica Bryant, Patrice Davis, Marlene Mendoza, Yvette Huerta, Daniel Melton, Aaron Sanders, Devon Essman, Nicholas Patterson, Joe Claudio, Baillie Villareal, Anna Garza, Jose Ojeda, Mayra Iracheta, Tiffaney Small, Ashley Hancock, Samantha Turner, Heather Gooch, Akoshua Davis, Janet Claudio, Jorge Mendoza, Vikki Xayadeth, and Margarita Dominguez.

I ask my colleagues to join me in congratulating Danville High School and these outstanding teachers and students on receiving this well-deserved honor.●

#### IN RECOGNITION OF RACHEL SIMON

● Mr. CARPER. Mr. President. I rise today in recognition of Rachel Simon and her extraordinary book, *Riding the*

*Bus with my Sister*. The book chronicles the time her developmentally disabled sister Beth spends riding the bus. It brings to light the world of adults with developmental disabilities, finds unlikely heroes in everyday life, and discovers unrealized inner strength.

Rachel Simon was born in 1959 in Newark, NJ, the second of four children. Her family moved around New Jersey and Pennsylvania several times when she was a child, and Rachel, who was always a very social, creative person, wrote mountains of letters to keep up with all her distant friends. She also wrote short stories, novels, and plays, which she enjoyed sharing with others.

Rachel graduated from Solebury School, a boarding school in New Hope, PA, in 1977. She then went on to Bryn Mawr College in Pennsylvania. During her years in college, she discovered the secrets of discipline and time management. She was also captivated by her courses in anthropology and graduated in 1981.

After college, Rachel moved to Philadelphia, where she spent the next 5 years at a variety of jobs, including paralegal, administrative assistant, and research supervisor for a television study. At 26, she entered a graduate program in creative writing.

In the next several years, Rachel wrote the story collection *Little Nightmares*, *Little Dreams* and the novel *The Magic Touch*. From her house in Abington, PA, she began teaching private classes in creative writing. In 1995, Rachel took a job running events at the Barnes & Noble in Princeton, NJ, and eventually moving to that area.

Around that time, Rachel also began writing commentary for the *Philadelphia Inquirer* and teaching at Bryn Mawr College, in addition to continuing with her private classes. In 1997, she published *The Writer's Survival Guide* and then worked on some long pieces of fiction.

As readers of *Riding the Bus with my Sister* know, Rachel's life changed when she wrote an article about her sister Beth's unusual lifestyle of riding the buses in the city where she lives. Over the course of riding with Beth for the next year, Rachel came to leave most of her jobs behind, found her way back to her sister, and rediscovered her friendships.

In May 2005, *Riding the Bus with my Sister* will be televised as a Hallmark Hall of Fame movie on CBS. Rosie O'Donnell is starring as Beth, Andie MacDowell is starring as Rachel, and Anjelica Huston is directing.

Both Rachel and her sister Beth are amazing women, and I rise today to honor them.●

#### MESSAGE FROM THE HOUSE

At 10:25 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6. An act to ensure jobs for our future with secure, affordable, and reliable energy.

#### 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-1932. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Bureau of Justice Assistance (BJA) Fiscal Year 2003 Annual Report in accordance with the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

EC-1933. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Domestic Abusive Trust Schemes" (UIL: 671.00-00) received on April 22, 2005; to the Committee on Finance.

EC-1934. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Children's Online Privacy Protection Rule" (RIN3084-AB00) received on April 22, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1935. A communication from the Director, Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Conforming Amendments to Implement the No Child Left Behind Act of 2001" (RIN1076-AE54) received on April 22, 2005; to the Committee on Indian Affairs.

EC-1936. A communication from the Director, Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Implementation of the No Child Left Behind Act" (RIN1076-AE49) received on April 22, 2005; to the Committee on Indian Affairs.

EC-1937. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations—34 CFR Parts 606, 607, 611, 637, 648, 656, 657, 658, 660, 661, 662, 663, 664, and 669" received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1938. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Professional Development for Arts Educators Program—Notice of Final Priority, Requirements, and Definitions" received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1939. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Arts in Education Model Development and Dissemination Program—Notice of Final Priority, Requirements, and Definitions" received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1940. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Vocational and Adult Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Notice of Final Requirements and Selection Criteria—Tech-Prep Demonstration

Program” received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1941. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Teaching American History—Notice of Final Selection Criteria and Other Application Requirements” received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1942. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Credit Enhancement for Charter School Facilities Program—Final Regulations” received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1943. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Notice of Final Priorities—Comprehensive School Reform Quality Initiative” received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1944. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Vocational and Adult Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Notice of Final Priorities, Requirements, Definitions, and Selection Criteria—Smaller Learning Communities Programs—Special Competition” received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-1945. A communication from the Assistant Secretary, Land and Minerals Management, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Rights-of-Way Under the Federal Land Policy Management Act and Rights-of-Way Under the Mineral Leasing Act” (RIN1004-AC74) received on April 22, 2005; to the Committee on Energy and Natural Resources.

EC-1946. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Wildlife and Plants; Establishment of an Additional Manatee Protection Area in Lee County, Florida” (RIN1018-AT65) received on April 22, 2005; to the Committee on Environment and Public Works.

**PETITIONS AND MEMORIALS**

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM-56. A joint resolution adopted by the Legislature of the State of Maine relative to the Togus Veterans Affairs Medical Center; to the Committee on Veterans’ Affairs.

**JOINT RESOLUTION**

Whereas the Veterans Affairs Medical Center in Togus, Maine, is the oldest facility operated by the United States Department of Veterans Affairs in the country, having been operated in 1866; and

Whereas the Togus Veterans Affairs Medical Center provides general medical, surgical and mental health services to our nation’s veterans; and

Whereas the Togus Veterans Affairs Medical Center is the only United States Depart-

ment of Veterans Affairs medical center in Maine, a large and rural state; and

Whereas the State of Maine has a large population of military veterans, with more returning from Iraq, Afghanistan and elsewhere around the globe every day; and

Whereas a cut in funding for the Togus Veterans Affairs Medical Center would be devastating to the medical center’s ability to provide basic health care services to our nation’s veterans: Now, therefore, be it

*Resolved*, That we, your memorialists, respectfully urge and request that the United States Congress support the Togus Veterans Affairs Medical Center as a vital resource in serving our nation’s military veterans and providing veterans in Maine with much-needed and deserved health care services accessible from all points in the State; and be it further

*Resolved*, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each Member of the Maine Congressional Delegation.

**REPORTS OF COMMITTEES**

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 728. A bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes (Rept. No. 109-61).

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 907. An original bill to amend chapter 53 of title 49, United States Code, to improve the Nation’s public transportation and for other purposes.

**EXECUTIVE REPORTS OF COMMITTEES**

The following executive reports of committees were submitted:

By Mr. GRASSLEY for the Committee on Finance.

\*Robert J. Portman, of Ohio, to be United States Trade Representative, with rank of Ambassador.

By Mr. CRAIG for the Committee on Veterans’ Affairs.

\*Johnathan Brian Perlin, of Maryland, to be Under Secretary for Health of the Department of Veterans Affairs for a term of four years.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

**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. McCAIN (for himself, Mr. HARKIN, Mr. STEVENS, and Mr. SMITH):

S. 900. A bill to reinstate the Federal Communications Commission’s rules for the description of video programming; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLEN:

S. 901. A bill to provide States that meet certain requirements with waivers of the adequate yearly progress provisions of the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARTINEZ:

S. 902. A bill to amend the Longshore and Harbor Workers’ Compensation Act to clarify the exemption for recreational vessel support employees, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON:

S. 903. A bill to provide for the correction of a certain John H. Chafee Coastal Barrier Resources System map; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 904. A bill to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the “Brian P. Parrello Post Office Building”; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HATCH:

S. 905. A bill for the relief of Heilit Martinez; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 906. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

By Mr. SHELBY:

S. 907. An original bill to amend chapter 53 of title 49, United States Code, to improve the Nation’s public transportation and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. MCCONNELL:

S. 908. A bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity; to the Committee on the Judiciary.

By Mr. DODD:

S. 909. A bill to expand eligibility for governmental markers for marked graves of veterans at private cemeteries; to the Committee on Veterans’ Affairs.

By Ms. SNOWE (for herself, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. CORZINE, Mr. DURBIN, and Mr. COCHRAN):

S. 910. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself, Mr. HAGEL, and Ms. COLLINS):

S.J. Res. 17. A joint resolution honoring the life and legacy of Frederick William Augustus von Steuben and recognizing his contributions on the 275th anniversary of his birth; to the Committee on the Judiciary.

**SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS**

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mr. CORNYN, Mr. GRASSLEY, Mrs.

HUTCHISON, Mr. MARTINEZ, and Ms. MURKOWSKI):

S. Res. 123. A resolution designating April 30, 2005, as "Día de los Niños: Celebrating Young Americans", and for other purposes; to the Committee on the Judiciary.

By Mr. HAGEL (for himself, Mr. FEINGOLD, and Ms. STABENOW):

S. Res. 124. A resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. Res. 125. A resolution commending the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004-2005 National Collegiate Athletic Association Division I Women's Hockey Championship; considered and agreed to.

By Mr. LUGAR (for himself, Mr. BAUCUS, Mr. ALLEN, Mr. HATCH, Mr. DEWINE, Mr. NELSON of Florida, Mr. COLEMAN, Mr. LEAHY, and Mr. CHAFFEE):

S. Con. Res. 28. A concurrent resolution expressing the sense of the Congress on World Intellectual Property Day regarding the importance of protecting intellectual property rights globally; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 313

At the request of Mr. LUGAR, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Virginia (Mr. ALLEN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 394

At the request of Mr. CORNYN, the name of the Senator from Wisconsin

(Mr. FEINGOLD) was added as a cosponsor of S. 394, a bill to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 433

At the request of Mr. ALLEN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 433, a bill to require the Secretary of Homeland Security to develop and implement standards for the operation of non-scheduled, commercial air carrier (air charter) and general aviation operations at Ronald Reagan Washington National Airport.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 544

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 544, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 548

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 576

At the request of Mr. BYRD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 582

At the request of Mr. PRYOR, the names of the Senator from Nebraska (Mr. NELSON), the Senator from South Carolina (Mr. DEMINT), the Senator from Iowa (Mr. HARKIN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Delaware (Mr. BIDEN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock

Central High School in Little Rock, Arkansas, and for other purposes.

S. 589

At the request of Mr. CORNYN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 594

At the request of Mr. SPECTER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 594, a bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 633, 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. 658

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 658, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 659

At the request of Mr. BROWNBACK, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 659, a bill to amend title 18, United States Code, to prohibit human chimeras.

S. 666

At the request of Mr. DEWINE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 728

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 728, a bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 765

At the request of Mr. WARNER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. 852

At the request of Mr. SPECTER, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 852, a bill to

create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 881

At the request of Ms. CANTWELL, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from North Dakota (Mr. DORGAN) were withdrawn as cosponsors of S. 881, a bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydro-power by the Grand Coulee Dam, and for other purposes.

S. RES. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Michigan (Ms. STABENOW) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. Res. 117, a resolution designating the week of May 9, 2005, as "National Hepatitis B Awareness Week".

AMENDMENT NO. 517

At the request of Mr. CORZINE, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Florida (Mr. NELSON), the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KERRY), the Senator from South Dakota (Mr. JOHNSON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mr. SCHUMER), the Senator from Minnesota (Mr. COLEMAN), the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. OBAMA), the Senator from Nebraska (Mr. NELSON), the Senator from California (Mrs. BOXER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. LEVIN), the Senator from Illinois (Mr. DURBIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from Colorado (Mr. SALAZAR) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of amendment No. 517 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. HARKIN, Mr. STEVENS, and Mr. SMITH):

S. 900. A bill to reinstate the Federal Communications Commission's rules

for the description of video programming; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing the Television Information-Enhancement for the Visually Impaired (TIVI) Act of 2005. This bill would require television broadcasters, during at least 50 hours of their prime time or children's programming every quarter, to insert verbal descriptions of actions or settings not contained in the normal audio track of a program. This can be accomplished through technology commonly referred to as "video description services," which allows television programming to be more accessible and enjoyable for the visually impaired.

This bill is necessary due to a 2002 decision by District of Columbia Circuit Court of Appeals. In 2000, the Federal Communications Commission ("FCC" or "Commission"), recognizing the need to make television programming accessible to the visually impaired, promulgated rules that mandated television broadcast stations and their affiliates, which met certain market requirements, provide 50 hours of video descriptions during prime time or children's programming every calendar quarter. Television programmers challenged the Commission's authority to promulgate such rules. The Circuit Court held that the Commission did not have authority to issue the regulations.

This bill would provide the Commission the authority to promulgate such regulations and reinstate the FCC's video description rules issued in 2000. Additionally, the bill would require the FCC to consider whether it is economically and technically feasible and consistent with the public interest to include "accessible information" in its video description rules, which may include written information displayed on a screen, hazardous warnings and other emergency information, and local and national news bulletins.

Since the spectrum that television broadcasters utilize is a public asset, one would expect that programming over the public airwaves is accessible to all Americans. Unfortunately, that is not the case today and that is why we must pass the TIVI Act. I sincerely hope that television broadcasters will work with us to provide video descriptions for individuals with visual disabilities.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 904. A bill to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to and remember Lance Cpl Brian P. Parrello, a resident of West Milford, NJ, who died January 1, 2005, while serving with the

U.S. Marines in Iraq. I was privileged to attend this brave young man's funeral in West Milford on January 8, 2005, and I was moved by the outpouring of grief for LCpl Parrello.

In honor of this young Marine's life, I have introduced a bill to rename the facility at 1560 Union Valley Road in West Milford, NJ as the "Brian P. Parrello Post Office Building." Senator CORZINE is a cosponsor of this legislation.

I would like to note that the renaming of this postal facility as the "Brian P. Parrello Post Office Building" was initiated by the West Milford Township Council, who wished to honor LCpl Parrello in this way. This is especially fitting since LCpl Parrello's father, Nino Parrello, is a letter carrier in West Milford. I am proud to be able to assist in the commemoration of his life by helping with the renaming process.

LCpl Parrello served in the Small Craft Company of the 2nd Marine Division's II Marine Expeditionary Force, which was based at Camp Lejeune, NC. During his service in Iraq, he was attached to a Marine Swift Boat unit that patrolled the Tigris and Euphrates rivers. He was killed New Year's Day as a result of hostile action in Hadithah, northwest of Baghdad.

During his too-short life, LCpl Parrello made a lasting impression on those around him. A graduate of West Milford High School in 2003, he was an athlete who played hockey and football, and he was voted to have "Most School Spirit" by his classmates. As those who knew him have attested, LCpl Parrello was a history buff who dreamed of becoming a history teacher.

LCpl Parrello's route to military service is the result of an admirable choice. He felt such a sense of duty after the September 11 attacks that he delayed going to college, and instead he enlisted in the Marines before his graduation from West Milford High School.

Tragically, LCpl Parrello died just a few days before his 19th birthday. We can commemorate the life of this extraordinary young man by quickly passing this bill to rename the postal facility in his hometown after him.

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. 904

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

#### SECTION 1. BRIAN P. PARRELLO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, shall be known and designated as the "Brian P. Parrello Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Brian P. Parrello Post Office Building".

By Mr. HATCH:

S. 905. A bill for the relief of Heilit Martinez; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a private relief bill for Miss Heilit Martinez. As my colleagues know, private relief is available in rare instances. I believe that the circumstances surrounding Miss Martinez's case are extraordinary and merit the introduction of private legislation. Therefore, I am pleased to introduce this legislation today.

Miss Martinez was brought into the U.S. with her parents when she was about two years of age and has lived in Utah since that time. It is important to note that Miss Martinez did not make the decision to enter this country as a young child nor did she decide to overstay a visa, and she was led to believe that she had legal status. Miss Martinez was raised and educated in the United States and is currently a straight A student at Utah State University.

Last year, Miss Martinez and a group of her college friends traveled into Mexico for a short day of sightseeing. When questioned at the port of entry, Miss Martinez declared that she had not been born in the United States but had legal immigration status. However, when she could not produce legal documentation, it was discovered that Miss Martinez was undocumented. She was detained for some days prior to her release.

For all intents and purposes, Miss Martinez does not have a country to which to return. The United States is her home. Therefore, I urge my colleagues to support the passage of this legislation to help Miss Martinez on the path of becoming a lawful, permanent resident.

Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 906. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, Governor Gregoire has already declared a drought in Washington State and I know my colleagues and I remain very concerned about what appears to be yet another year of devastating drought throughout the West, and the hazards this could pose in terms of increased fire risk and threats to public safety.

But today, I want to focus the majority of my comments on a topic that I have focused on and hope my colleagues will pay close attention to as the 2005 fire season approaches. That's the issue of wildland firefighter safety.

Many of my colleagues are probably aware of the fact that every summer, we send thousands of our constituents—many of them brave young men and women, college students on summer break—into harm's way to protect our Nation's rural communities and public lands. These men and women serve our Nation bravely.

Since 1910, more than 900 wildland firefighters have lost their lives in the

line of duty. These firefighters represented a mix of Federal and State employees, volunteers and independent contractors. And they lost their lives for an array of reasons. We all realize that fighting fires on our Nation's public lands is an inherently dangerous business. But what we cannot and must not abide are the preventable deaths—losing firefighters because rules were broken, policies ignored and no one was held accountable.

A number of my colleagues will recall that, in 2001, this issue was pushed to the fore in the State of Washington, because of a horrible tragedy. On July 10, 2001, near Winthrop in Okanogan County, in the midst of the second worst drought in the history of our State, the Thirtymile fire burned out of control.

Four courageous young firefighters were killed. Their names: Tom Craven, 30 years old; Karen FitzPatrick, 18; Jessica Johnson, 19; and Devin Weaver, 21.

Sadly, as subsequent investigations revealed, these young men and women did not have to die. In the words of the Forest Service's own report on the Thirtymile fire, the tragedy "could have been prevented." At that time, I said that I believe we in Congress and management within the firefighting agencies have a responsibility to ensure that no preventable tragedy like Thirtymile fire ever happened again.

I would like to thank my colleague Senator BINGAMAN, the distinguished Ranking Member of the Senate Energy Committee, as well as Senator WYDEN, who was then chair of the Subcommittee on Public Lands and Forests. In the wake of the Thirtymile fire, they agreed to convene hearings on precisely what went wrong that tragic day. We heard from the grief-stricken families.

In particular, the powerful testimony of Ken Weaver—the father of one of the lost firefighters—put into focus precisely what's at stake when we send these men and women into harm's way.

I can think of no worse tragedy than a parent confronting the loss of a child, especially when that loss could have been prevented by better practices on the part of federal agencies.

At the Senate Energy Committee hearing, we also discussed with experts and the Forest Service itself ways in which we could improve the agency's safety performance. And almost a year to the day after those young people lost their lives, we passed a bill—ensuring an independent review of tragic incidents such as Thirtymile that lead to unnecessary fatalities.

Based on subsequent briefings by the Forest Service, revisions to the agency's training and safety protocols, and what I've heard when I have visited with firefighters over the past 2 years, I do believe the courage of the Thirtymile families to stand up and demand change has had a positive impact on the safety of the young men and women who are preparing to battle blazes as wildland firefighters.

Yet, I'm deeply saddened by the fact that it's clear we haven't done nearly enough. In July 2003—2 years after Thirtymile—two more firefighters perished, this time at the Cramer fire within Idaho's Salmon-Challis National Forest. Jeff Allen and Shane Heath were killed when the fire burned over an area where they were attempting to construct a landing spot for firefighting helicopters.

After the Thirtymile fire, however, I told the Weavers and the Cravens, the families of Karen FitzPatrick and Jessica Johnson that I believed we owed it to their children to identify the causes and learn from the mistakes that were made in the Okanogan, to make wildland firefighting safer for those who would follow. That is why the findings associated with the Cramer fire simply boggle my mind.

We learned at Thirtymile that all ten of the agencies' Standing Fire Orders and many of the 18 Watch Out Situations—the most basic safety rules—were violated or disregarded. The same thing happened at Cramer, where Heath and Allen lost their lives 2 years later.

After the Thirtymile Fire, the Occupational Safety and Health Administration (OSHA) conducted an investigation and levied against the Forest Service five citations for Serious and Willful violations of safety rules. It was eerie, then, when just in March 2004 OSHA concluded its investigation of Cramer. The result: another five OSHA citations, for Serious, Willful and Repeat violations.

Reading through the list of causal and contributing factors for Cramer and putting them next to those associated with the Thirtymile fire, my colleagues would be struck by the many disturbing similarities. Even more haunting are the parallels between these lists and the factors cited in the investigation of 1994's South Canyon Fire on Storm King Mountain in Colorado.

It's been more than a decade since those 14 firefighters lost their lives on Storm King Mountain—and yet, the same mistakes are being made over and over again.

These facts have also been documented by an audit and memorandum issued last September by the Department of Agriculture's Inspector General. The IG found that "accidents on the South Canyon, Thirtymile, and Cramer Fires, all of which involved fatalities, could have been avoided if certain individuals had followed standard safety practices and procedures in place at the time."

The IG also noted that the Forest Service "has not timely implemented actions to improve its safety programs." Some 27 of 81 action items identified as a result of the Storm King and Thirtymile Fires—or roughly a third—had not been fully implemented years later. While I know that the IG is monitoring implementation of some of these items, the stark similarities between Storm King, Thirtymile, and

Cramer make it seem positively astounding that the Forest Service still finds my bill “not necessary.”

I don't believe that's acceptable. The firefighters we send into harm's way this year—and the ones we've already lost—deserve better.

Training, leadership and management problems have been cited in all of the incidents I've discussed. Frankly, I have believed since the Thirtymile tragedy that the Forest Service has on its hands a cultural problem. What can we do, from the legislative branch, to provide this agency with enough motivation to change? I believe the first step we can take is to equip ourselves with improved oversight tools, so these agencies know that Congress is paying attention. Today I'm re-introducing legislation—the Wildland Firefighter Safety Act of 2005—that would do just that.

I believe this is a modest yet important proposal. It was already passed once by the Senate, as an amendment to the 2003 Healthy Forests legislation. However, I was disappointed that it was not included in the conference version of the bill. But it is absolutely clear to me—particularly in light of OSHA's review of the Cramer Fire—that these provisions are needed now more than ever.

First, the Wildland Firefighter Safety Act of 2005 will require the Secretaries of Agriculture and Interior to track the funds the agencies expend for firefighter safety and training.

Today, these sums are lumped into the agencies' “wildfire preparedness” account. But as I have discussed with various officials in hearings before the Senate Energy and Natural Resources Committee, it is difficult for Congress to play its rightful oversight role—ensuring that these programs are funded in times of wildfire emergency, and measuring the agencies' commitment to these programs over time—without a separate break-down of these funds.

Second, it will require the Secretaries to report to Congress annually on the implementation and effectiveness of its safety and training programs.

Congress has the responsibility to ensure needed reforms are implemented. As such, I believe that Congress and the agencies alike would benefit from an annual check-in on these programs. I would also hope that this would serve as a vehicle for an ongoing and healthy dialogue between the Senate and agencies on these issues.

Third, my bill would stipulate that federal contracts with private firefighting crews require training consistent with the training of federal wildland firefighters. It would also direct those agencies to monitor compliance with this requirement.

This is important not just for the private contractor employees' themselves—but for the Federal, State and tribal employees who stand shoulder-to-shoulder with them on the fire line.

The Wildland Firefighter Safety Act of 2005 is a modest beginning in ad-

ressing the challenges posed by integrating private and federal contract crews—and doing it in a manner that maximizes everyone's safety on the fire line.

I hope my colleagues will support this simple legislation. Ultimately, the safety of our Federal firefighters is a critical component of how well prepared our agencies are to deal with the threat of catastrophic wildfire.

Congress owes it to the families of those brave firefighters we send into harm's way to provide oversight of these safety and training programs.

We owe it to our Federal wildland firefighters, their families and their State partners—and to future wildland firefighters.

My bill will provide this body with the additional tools it needs to do the job.

By Mr. McCONNELL:

S. 908. A bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity; to the Committee on the Judiciary.

Mr. McCONNELL. Mr. President, 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. 908

*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 “Commonsense Consumption Act of 2005”.

#### SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the food and beverage industries are a significant part of our national economy;

(2) the activities of manufacturers and sellers of foods and beverages substantially affect interstate and foreign commerce;

(3) a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity is based on a multitude of factors, including genetic factors and the lifestyle and physical fitness decisions of individuals, such that a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity cannot be attributed solely to the consumption of any specific food or beverage; and

(4) because fostering a culture of acceptance of personal responsibility is one of the most important ways to promote a healthier society, lawsuits seeking to blame individual food and beverage providers for a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity are not only legally frivolous and economically damaging, but also harmful to a healthy America.

(b) PURPOSE.—The purpose of this Act is to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

#### SEC. 3. PRESERVATION OF SEPARATION OF POWERS.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

(c) DISCOVERY.—

(1) STAY.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the obligation of any party or non-party to make disclosures of any kind under any applicable rule or order, or to respond to discovery requests of any kind, as well as all proceedings unrelated to a motion to dismiss, shall be stayed prior to the time for filing a motion to dismiss and during the pendency of any such motion, unless the court finds upon motion of any party that a response to a particularized discovery request is necessary to preserve evidence or to prevent undue prejudice to that party.

(2) RESPONSIBILITY OF PARTIES.—During the pendency of any stay of discovery under paragraph (1), the responsibilities of the parties with regard to the treatment of all documents, data compilations (including electronically recorded or stored data), and tangible objects shall be governed by applicable Federal or State rules of civil procedure. A party aggrieved by the failure of an opposing party to comply with this paragraph shall have the applicable remedies made available by such applicable rules, provided that no remedy shall be afforded that conflicts with the terms of paragraph (1).

(d) PLEADINGS.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the complaint initiating such action shall state with particularity—

(1) each element of the cause of action;

(2) the Federal and State statutes or other laws that were allegedly violated;

(3) the specific facts alleged to constitute the claimed violation of law; and

(4) the specific facts alleged to have caused the claimed injury.

(e) RULE OF CONSTRUCTION.—No provision of this Act shall be construed to create a public or private cause of action or remedy.

#### SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term “engaged in the business” means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person's regular course of trade or business.

(2) MANUFACTURER.—The term “manufacturer” means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product.

(3) PERSON.—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term “qualified product” means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)))

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “qualified civil liability action” means a civil action brought by any person against a manufacturer, marketer, distributor, advertiser, or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or



other relief arising out of, or related to a person's accumulated acts of consumption of a qualified product and weight gain, obesity, or a health condition that is associated with a person's weight gain or obesity, including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of that person.

(B) EXCEPTION.—A qualified civil liability action shall not include—

(i) an action based on allegations of breach of express contract or express warranty, provided that the grounds for recovery being alleged in such action are unrelated to a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity;

(ii) an action based on allegations that—

(I) a manufacturer or seller of a qualified product knowingly violated a Federal or State statute applicable to the marketing, advertisement, or labeling of the qualified product with intent for a person to rely on that violation;

(II) such person individually and justifiably relied on that violation; and

(III) such reliance was the proximate cause of injury related to that person's weight gain, obesity, or a health condition associated with that person's weight gain or obesity; or

(iii) an action brought by the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(6) SELLER.—The term "seller" means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product.

(7) STATE.—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term "trade association" means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

By Mr. DODD:

S. 909. A bill to expand eligibility for governmental markers for marked graves of veterans at private cemeteries; to the Committee on Veterans' Affairs.

Mr. DODD. Mr. President, I rise today to introduce a bill that will restore the rights of all veterans and their families to receive an official grave marker of the Department of Veterans Affairs. This legislation addresses an unfortunate inequity that exists for veterans who passed away during the period between November 1, 1990 and September 11, 2001.

It may come as a shock to my colleagues to learn that while all other veterans are entitled to the VA's official grave markers, current law forbids veterans who passed away during this

eleven year period from being so honored.

This situation is unacceptable and must be remedied.

Nearly one year ago today, the National World War II Memorial was unveiled to the public. Countless Americans who have passed its 50 stone pillars since that time have been reminded of the courage and sacrifice of the men and women who served our country. at its time of greatest need.

But as Senator Bob Dole stated at its dedication ceremony, the World War II Memorial is not a tribute to war and conflict. Rather, he said, "it's a tribute to the physical and moral courage that makes heroes out of farm and city boys and that inspires Americans in every generation to lay down their lives for people they will never meet, for ideals that make life itself worth living."

Indeed, monuments like the World War II Memorial serve as a reminder of the service, sacrifice and dedication of our veterans. The 4,000 stars resting on the Wall of Freedom remind us that too many paid the ultimate price.

Many Americans have a similar experience when they visit the grave of a former veteran—often a friend or relative. Most of these grave sites have markers paying tribute to the veteran's service. We place flags by their side on Memorial Day. Until 1990, moreover, the family of a deceased Veteran could receive reimbursement for a VA headstone, a VA marker, or a private headstone. However, in the name of cost-cutting, measures were taken to prevent the VA from providing markers to those families that had purchased gravestones out of their own pockets.

In my view, this measure was a serious injustice. Nearly all families today provide for some gravestone or other privately purchased marker following the death of a relative. Yet most were unaware of the new VA regulation. Many veterans were buried without any official recognition of their service to our country. As of 2001, the VA estimated that it was forced to deny nearly 20,000 requests for such markers every year.

This body first endorsed a provision restoring the right of every veteran to receive a grave marker as early as June 7, 2000 as part of the fiscal year 2001 Defense Authorization Bill. This body approved this language again on December 8, 2001. But it was not until December 6, 2002 that legislation was signed into law as part of the Veterans Improvement Act allowing VA markers to be provided to deceased veterans retroactively. Unfortunately, however, when the bill went to a conference with the House of Representatives, this benefit was only applied retroactively to September 11, 2001 rather than to November 1, 1990, the date at which the new VA regulation came into effect. Veterans who passed away between those two dates were cut out.

That decision has never satisfied me or many veterans and their families.

Why should one veteran receive recognition, while the family of another is told that there is nothing our government can do simply because of the date of their passing?

My legislation will correct this inequity. This bill is simple. It ensures that all veterans who have passed away since 1990 are able to receive a VA grave marker.

It is inexpensive. In 2001, the Congressional Budget Office estimated that providing such a benefit to all veterans would cost no more than \$3 million per year for the first 5 years. Since most of the families of veterans who passed away between 1990 and 2001 have already completed their burial plans, it is safe to assume that a substantially smaller number of individuals would require this benefit.

Today is the seventh anniversary of the passing of Agostino Guzzo, a Connecticut resident who bravely served in the United States Armed Forces in the Philippines during World War II. His family interred his body in a mausoleum at the Cedar Hill Cemetery in Hartford, Connecticut. The family was not aware of the VA's restrictions on grave markers, and was told by the VA that there was no way to receive an official recognition.

Agostino's son, Thomas Guzzo, brought the matter to my attention, and, along with Representative NANCY JOHNSON, we were able pass to legislation granting Agostino the memorial he deserves. But too many families are still denied such markers. This legislation honors the memory of Agostino Guzzo and all of the veterans who have served their country in war and in peace. Thomas Guzzo's commitment to this issue has not ended. The commitment of this Congress to the issue should continue as well.

I hope our colleagues will give this important legislation their favorable consideration.

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. 909

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

**SECTION 1. PROVISION OF GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES.**

(a) IN GENERAL.—Section 502(d) of the Veterans Education and Benefits Expansion Act of 2001 (38 U.S.C. 2306 note) is amended by striking "September 11, 2001" and inserting "November 1, 1990".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 502 of the Veterans Education and Benefits Expansion Act of 2001.

By Ms. SNOWE (for herself, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. CORZINE, Mr. DURBIN, and Mr. COCHRAN):

S. 910. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce the Breast Cancer Patient Protection Act of 2005. I am pleased to be joined today by Senator LANDRIEU in introducing this legislation to assure women of a higher standard of breast cancer treatment. We are joined today by colleagues who have supported our efforts in the past—Senator FEINSTEIN, Senator BOXER, Senator MURRAY, Senator CORZINE, and Senator DURBIN. Today in the House, Representatives KELLY and DELAURO are introducing identical legislation. Working together in this bipartisan, bicameral effort—supported by so many breast cancer advocates—we should at last achieve for American women the protections they so deserve.

A woman in the United States has a 1 in 7 chance of developing breast cancer in her lifetime. This year over 216,000 women will receive a life-altering diagnosis of invasive breast cancer. At some point in their lives, nearly every American will have a family member or friend who must battle breast cancer. Yet current standards of health care coverage have created a situation in which thousands of women each year undergo mastectomies needlessly, and women have even undergone breast cancer surgery as an outpatient—the “drive through mastectomy” as it has been called—being sent home without critical support for their recovery.

Our legislation empowers women and their doctors to make treatment decisions based on what is medically prudent, not simply what will achieve short-term savings. The stress of a cancer diagnosis is debilitating. To compound that stress, to leave a woman with the knowledge that she must undergo a disfiguring procedure due only to her financial position, or to undergo surgery without proper hospitalization, is absolutely unconscionable.

This bill achieves three important objectives. First, it assures a patient of a second opinion for any cancer diagnosis. A cancer diagnosis simply must be reliable.

Second, this legislation assures a patient of a reasonable minimum length of hospital stay for invasive treatment of breast cancer. Many of us have heard of women receiving outpatient mastectomies, being sent home without the necessary support. Such treatment is unconscionable. This legislation establishes a 48 hour minimum stay assurance for mastectomy and lumpectomy. I must point out that this assurance does not require a woman remain hospitalized that long if she and her doctor concur that she goes home

earlier—nor does it prevent a longer hospitalization if her medical condition warrants it.

However, this provision will protect women from that small fraction of insurance plans which will not allow such reasonable treatment. This assurance is offered regardless of whether the patient's plan is regulated by ERISA or State regulations.

Finally, this legislation does more than simply ensure a patient of reasonable hospitalization. It assures her of support in making the best choices about her treatment.

It is not hard to understand why the words “you have breast cancer” are some of the most frightening in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many women, the answer to that last question is a mastectomy or lumpectomy. But despite the fact that studies are demonstrating that lumpectomy often is just as effective as mastectomy for treating breast cancer, an insurance coverage bias causes too many to unnecessarily undergo mastectomy. By ensuring a reasonable hospital stay, as well as coverage for radiation therapy, this legislation removes much of the financial incentive that has caused women to receive a mastectomy when a lumpectomy would have been just as effective.

In fact, when the pain, trauma, and cost of breast reconstruction is considered, together with the frequent need for follow-up surgeries, and when we consider the additional health risks which implants may pose, it is clear that mastectomy can entail greater health and economic costs. Decisions about treatment simply must be based on sound science and a long term view, not what is most financially expedient at that very moment. A woman must have the ability to make a choice with their physician which considers what is in her best long term interest. This legislation ensures that choice is not influenced by a short term outlook.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

Ms. LANDRIEU. Mr. President, approximately 211,300 women will be diagnosed with breast cancer this year. No doubt, you know one of these women. In fact, they may be your sister, mother, aunt, cousin or dear friend. In most cases, the doctor will prescribe immediate and often times aggressive treatment in the hopes of stalling further progression of the disease. The quality of care that breast cancer patients receive is critically important to their survival. Despite the urgent need for Federal protections to ensure that breast cancer sufferers receive appropriate treatment, very few exist.

It may shock you to learn that women who have undergone surgical treatments such as breast removal mastectomy—or lymph node dissections are being sent home within hours of having surgery because insurance companies are unwilling to reimburse recovery time in hospitals, a practice referred to as “Drive-Through Mastectomies.” These women have reported being sent home still drowsy from anesthesia, weakened from hours of surgery, and with drainage tubes attached to their bodies, while simultaneously experiencing the immense emotional trauma associated with the removal of a breast or lymph nodes.

To this end, I am pleased to have worked with Senator SNOWE to introduce the Breast Cancer Patient Protection Act of 2005. This legislation will prevent insurance companies from restricting hospital stays resulting from mastectomies to less than 48 hours and hospital stays resulting from lymph node dissections to less than 24 hours. This bill does not prevent a doctor from discharging a woman prior to these minimum requirements, if he/she determines, in consultation with the patient, that this is the best treatment option. The Breast Cancer Patient Protection Act simply ensures that these types of medical decisions are made by doctors, not insurance companies. The legislation also prohibits insurance companies from circumventing the legislation through practices such as providing incentives to doctors or patients to reduce length of stays associated with mastectomies or lymph node dissections.

To be fair, we must acknowledge that this legislation will not change the nature of mastectomies and lymph node dissections for the majority of women. Over 19 States have already put State laws in place that work to the same end as the Breast Cancer Patient Protection Act, and the vast majority of insurance companies have already responded on their own to this problem. However, this is a case in which the injustice, while small in number of women it affects, is clear. And just as the injustice is apparent, the solution is simple. It is high time that the Federal Government took action. Yes, many states have already done so, and yes, many insurance companies have, too, but if even one woman is forced to go home too soon after such an invasive surgery, that is one woman too many. It is not the fact that this is happening to many women, it is the fact that it is happening to any women. For all of our sisters, mothers, daughters, aunts, friends, and loved ones, it is time for us to provide the needed protections. I ask for your support of the Breast Cancer Patient Protection Act of 2005.

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 123—DESIGNATING APRIL 30, 2005, AS “DÍA DE LOS NIÑOS: CELEBRATING YOUNG AMERICANS,” AND FOR OTHER PURPOSES

Mr. HATCH (for himself, Mr. CORNYN, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. MARTINEZ, and Ms. MURKOWSKI) submitted the following resolution; which was referred to the Committee on the Judiciary:

## S. RES. 123

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate “Día de los Niños”, or “Day of the Children” on the 30th of April, in recognition and celebration of their country’s future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and as of 2003, approximately 12,300,000 Hispanic children live in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year, and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their dreams and aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children’s Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as “Día de los Niños: Celebrating Young Americans”—a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates April 30, 2005, as “Día de los Niños: Celebrating Young Americans”; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the United States to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another’s cultures and to share ideas;

(D) include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to find the inner strength—the will and fire of the human spirit—to make their dreams come true.

Mr. HATCH. Mr. President, I rise today to submit an important resolution designating the 30th day of April 2005 as “Día de los Niños: Celebrating Young Americans.”

Nations throughout the world, and especially within Latin America, celebrate Día de los Niños on the 30th of April, in recognition and celebration of their country’s future—their children. Many American Hispanic families continue the tradition of honoring their children on this day by celebrating Día de los Niños in their homes.

The designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community. This special recognition of children will provide us with an opportunity to reflect on their future, articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities. This resolution calls on the American people to join with all children, families, organizations, communities, churches, cities, and states across the Nation to observe the day with appropriate ceremonies and activities.

Joining me as original co-sponsors to this Resolution are JOHN CORNYN, CHARLES E. GRASSLEY, KAY BAILEY HUTCHISON, MEL MARTINEZ, and LISA MURKOWSKI.

I strongly urge my colleagues to join us in promptly passing this Resolution designating April 30, 2005 Día de los Niños: Celebrating Young Americans.

SENATE RESOLUTION 124—RECOGNIZING THE IMPORTANCE OF INCREASING AWARENESS OF AUTISM SPECTRUM DISORDERS, SUPPORTING PROGRAMS FOR INCREASED RESEARCH AND IMPROVED TREATMENT OF AUTISM, AND IMPROVING TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

Mr. HAGEL (for himself, Mr. FEINGOLD, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

## S. RES. 124

Whereas the Autism Society of America, Cure Autism Now, the National Alliance for Autism Research, The Dan Marino Foundation, and numerous other organizations commemorate April as National Autism Awareness Month;

Whereas autism is a developmental disorder that is typically diagnosed during the first 3 years of life, robbing individuals of their ability to communicate and interact with others;

Whereas autism affects an estimated 1 in every 166 children in America;

Whereas autism is 4 times more likely in boys than in girls, and can affect anyone, regardless of race, ethnicity, or other factors;

Whereas the cost of specialized treatment in a developmental center for people with autism is approximately \$80,000 per individual per year;

Whereas the cost of special education programs for school-aged children with autism is often more than \$30,000 per individual per year;

Whereas the cost nationally of caring for persons affected by autism is estimated at upwards of \$90,000,000,000 per year; and

Whereas despite the fact that autism is one of the most common developmental disorders, many professionals in the medical and educational fields are still unaware of the best methods to diagnose and treat the disorder: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the establishment of April as National Autism Awareness Month;

(2) recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services;

(3) supports the goal of increasing Federal funding for aggressive research to learn the root causes of autism, identify the best methods of early intervention and treatment, expand programs for individuals with autism across their lifespan, and promote understanding of the special needs of people with autism;

(4) commends the Department of Health and Human Services for the swift implementation of the Children’s Health Act of 2000, particularly for establishing 4 “Centers of Excellence” at the Centers for Disease Control and Prevention to study the epidemiology of autism and related disorders and the proposed “Centers of Excellence” at the National Institutes of Health for autism research;

(5) stresses the need to begin early intervention services soon after a child has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for young people with autism, and early intervention significantly

improves outcomes for people with autism and can reduce the level of funding and services needed later in life;

(6) supports the Federal Government's nearly 30-year-old commitment to provide States with 40 percent of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act (IDEA);

(7) recognizes the shortage of appropriately trained teachers who have the skills and support necessary to teach, assist, and respond to special needs students, including those with autism, in our school systems; and

(8) recognizes the importance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism, and notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

SENATE RESOLUTION 125—COMMENDING THE UNIVERSITY OF MINNESOTA GOLDEN GOPHERS WOMEN'S ICE HOCKEY TEAM FOR WINNING THE 2004-2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S HOCKEY CHAMPIONSHIP

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 125

Whereas, on Sunday, March 27, 2005, the University of Minnesota Golden Gophers won the National Collegiate Athletic Association (NCAA) Division I Women's Hockey Championship for the second straight year;

Whereas the University of Minnesota Golden Gophers defeated Harvard University in the championship game by a score of 4 to 3, and defeated Dartmouth College by a score of 7 to 2 in the semifinals;

Whereas, during the 2004-2005 season, the Golden Gophers won an outstanding 36 out of 40 games;

Whereas Ms. Krissy Wendell was honored with the prestigious Patty Kazmaier Award, which is presented annually to the Nation's most outstanding women's collegiate hockey player;

Whereas Ms. Natalie Darwitz, Ms. Lyndsay Wall, and Ms. Krissy Wendell were selected for the 2004-2005 NCAA All-Tournament Team, and Ms. Darwitz was named the tournament's Most Valuable Player;

Whereas Ms. Lyndsay Wall, Ms. Krissy Wendell, and Ms. Natalie Darwitz were named to the CCM Women's University Division I Ice Hockey All-American First Team, and Ms. Jody Horak was named to the CCM Women's University Division I Ice Hockey All-American Second Team;

Whereas the team's seniors—Ms. Jody Horak, Ms. Brenda Reinen, Ms. Kelly Stephens, Ms. Noelle Sutton, and Ms. Stacy Troumbly—made tremendous contributions to the University of Minnesota Golden Gophers women's ice hockey program throughout their collegiate careers;

Whereas Ms. Ashley Albrecht, Ms. Chelsey Brodt, Ms. Natalie Darwitz, Ms. Whitney Graft, Ms. Jody Horak, Ms. Krista Johnson, Ms. Natalie Lammé, Ms. Erica McKenzie, Ms. Anya Miller, Ms. Andrea Nichols, Ms. Liz Palkie, Ms. Jenelle Philipczyk, Ms. Brenda Reinen, Ms. Bobbi Ross, Ms. Allie Sanchez, Ms. Maggie Souba, Ms. Kelly Stephens, Ms. Noelle Sutton, Ms. Stacy Troumbly, Ms. Becky Wacker, Ms. Lyndsay Wall, and Ms. Krissy Wendell demonstrated exceptional teamwork, selfless team spirit, and admirable sportswomanship throughout the season;

Whereas the University of Minnesota Golden Gophers women's ice hockey team Head Coach Laura Halldorson and Assistant Coaches Brad Frost, Charlie Burggraf, and Jeff Moen provided outstanding leadership and coaching to mold all of the talented young women into a championship team: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004-2005 National Collegiate Athletic Association's Division I Women's Ice Hockey Championship;

(2) recognizes the outstanding achievements of the team's players, coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the president of the University of Minnesota.

SENATE CONCURRENT RESOLUTION 28—EXPRESSING THE SENSE OF THE CONGRESS ON WORLD INTELLECTUAL PROPERTY DAY REGARDING THE IMPORTANCE OF PROTECTING INTELLECTUAL PROPERTY RIGHTS GLOBALLY

Mr. LUGAR (for himself, Mr. BAUCUS, Mr. ALLEN, Mr. HATCH, Mr. DEWINE, Mr. NELSON of Florida, Mr. COLEMAN, Mr. LEAHY, and Mr. CHAFFEE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 28

Whereas protection of intellectual property is critical to our nation's economic competitiveness, cultural diversity, health and scientific development;

Whereas the United States economy depends increasingly on the work of authors, artists, inventors, programmers, and many others who create intellectual products of high value;

Whereas theft of intellectual property results in competitive disadvantages to United States industries and job losses for American workers, and for the United States economy as a whole;

Whereas the copyright industries employ approximately 11,500,000 workers or 8.41 percent of total employment in the United States, a number that approaches the levels of employment in the health care and social assistance sector (15,300,000 employees) and the entire manufacturing sector (14,500,000 workers in 21 manufacturing industries);

Whereas there is great concern about the failure of many of our trading partners to live up to their international obligations in the area of intellectual property protection;

Whereas counterfeiting of copyrighted products in digital and other formats, as well as counterfeiting of all types of trademarked products, has grown to an enormous scale;

Whereas many of our trading partners, in particular Russia and China, have laws in place to prevent piracy and counterfeiting, but are failing to enforce the laws;

Whereas Russia and China alone are responsible for over \$4,000,000,000 in losses a year to United States industries due to piracy;

Whereas piracy in Russia and China is open, notorious, and permitted to operate without meaningful hindrance from the governments of those countries;

Whereas China should be encouraged to meet its intellectual property protection obligations as a member of the World Trade Organization (WTO);

Whereas Russia should be encouraged to explore means to provide effective piracy protection enabling compliance with the rules set forth by the WTO;

Whereas the United States Government must convey to these countries that failure to act will have political and economic consequences for relationships with the United States; and

Whereas Congress has enacted legislation regarding the protection of intellectual property, including measures which direct the Administration to censure countries that fail to provide adequate and effective protection for intellectual property: Now, therefore, be it

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

(1) the Administration should utilize effective remedies and solutions in addressing the lack of intellectual property protection in China and Russia, using all available tools provided by Congress;

(2) the Administration should ensure that any country that enjoys benefits under the Generalized System of Preferences (GSP) program, such as Russia, lives up to its obligations to provide adequate and effective protection for intellectual property rights, or lose its eligibility to participate in trade preference programs;

(3) the Administration should ensure that action is taken against any country with which the United States shares mutual commitments under the WTO, such as China, when the country fails to live up to its WTO commitments;

(4) the Administration should urge Russia to promote measures to enforce intellectual property protection which will enable compliance with the intellectual property commitments required by the WTO; and

(5) the President should take any additional action the President considers appropriate to protect the intellectual property rights of United States businesses.

AMENDMENTS SUBMITTED AND PROPOSED

SA 567. Mr. INHOFE proposed an amendment to the bill H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 568. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 569. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 570. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 571. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 572. Mr. THUNE proposed an amendment to amendment SA 567 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 573. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 574. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 575. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 576. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 577. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 578. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 579. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 580. Mr. VOINOVICH (for himself, Mr. DEWINE, Mr. COLEMAN, Mr. DURBIN, Mr. OBAMA, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 581. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 567.** Mr. INHOFE proposed an amendment to the bill H.R. 3, Reserved; as follows:

Strike all after the enacting clause and insert the following:

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. General definitions.
- Sec. 3. Definitions for title 23.

#### TITLE I—FEDERAL-AID HIGHWAYS

##### Subtitle A—Funding

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Apportionments.
- Sec. 1104. Equity bonus programs.
- Sec. 1105. Revenue aligned budget authority.

##### Subtitle B—New Programs

- Sec. 1201. Infrastructure performance and maintenance program.
- Sec. 1202. Future of surface transportation system.
- Sec. 1203. Freight transportation gateways; freight intermodal connections.
- Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
- Sec. 1205. Designation of Interstate Highways.
- Sec. 1206. State-by-State comparison of highway construction costs.

##### Subtitle C—Finance

- Sec. 1301. Federal share.
- Sec. 1302. Transfer of highway and transit funds.
- Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
- Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
- Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
- Sec. 1306. State infrastructure banks.
- Sec. 1307. Public-private partnerships pilot program.
- Sec. 1308. Wagering.

##### Subtitle D—Safety

- Sec. 1401. Highway safety improvement program.
- Sec. 1402. Operation lifesaver.
- Sec. 1403. License suspension.
- Sec. 1404. Bus axle weight exemption.
- Sec. 1405. Safe routes to schools program.
- Sec. 1406. Purchases of equipment.
- Sec. 1407. Workzone safety.
- Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
- Sec. 1409. Identity authentication standards.
- Sec. 1410. Open container requirements.

##### Subtitle E—Environmental Planning and Review

#### CHAPTER 1—TRANSPORTATION PLANNING

- Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
- Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
- Sec. 1503. Integration of natural resource concerns into transportation project planning.
- Sec. 1504. Public involvement in transportation planning and projects.
- Sec. 1505. Project mitigation.

#### CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

- Sec. 1511. Transportation project development process.
- Sec. 1512. Assumption of responsibility for categorical exclusions.
- Sec. 1513. Surface transportation project delivery pilot program.
- Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
- Sec. 1515. Regulations.

#### CHAPTER 3—MISCELLANEOUS

- Sec. 1521. Critical real property acquisition.
  - Sec. 1522. Planning capacity building initiative.
  - Sec. 1523. Intermodal passenger facilities.
- ##### Subtitle F—Environment
- Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
  - Sec. 1602. National scenic byways program.
  - Sec. 1603. Recreational trails program.
  - Sec. 1604. Exemption of Interstate System.
  - Sec. 1605. Standards.
  - Sec. 1606. Use of high occupancy vehicle lanes.
  - Sec. 1607. Bicycle transportation and pedestrian walkways.
  - Sec. 1608. Idling reduction facilities in Interstate rights-of-way.
  - Sec. 1609. Toll programs.
  - Sec. 1610. Federal reference method.
  - Sec. 1611. Addition of particulate matter areas to CMAQ.
  - Sec. 1612. Addition to CMAQ-eligible projects.
  - Sec. 1613. Improved interagency consultation.
  - Sec. 1614. Evaluation and assessment of CMAQ projects.
  - Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
  - Sec. 1616. Transition to new air quality standards.
  - Sec. 1617. Reduced barriers to air quality improvements.
  - Sec. 1618. Air quality monitoring data influenced by exceptional events.
  - Sec. 1619. Conforming amendments.
  - Sec. 1620. Highway stormwater discharge mitigation program.
  - Sec. 1621. Exemption from certain hazardous materials transportation requirements.
  - Sec. 1622. Funds for rebuilding fish stocks.

##### Subtitle G—Operations

- Sec. 1701. Transportation systems management and operations.
- Sec. 1702. Real-time system management information program.
- Sec. 1703. Contracting for engineering and design services.
- Sec. 1704. Off-duty time for drivers of commercial vehicles.
- Sec. 1705. Designation of transportation management areas.

##### Subtitle H—Federal-Aid Stewardship

- Sec. 1801. Future Interstate System routes.
- Sec. 1802. Stewardship and oversight.
- Sec. 1803. Design-build contracting.
- Sec. 1804. Program efficiencies—finance.
- Sec. 1805. Set-asides for interstate discretionary projects.
- Sec. 1806. Federal lands highways program.
- Sec. 1807. Highway bridge program.
- Sec. 1808. Appalachian development highway system.
- Sec. 1809. Multistate corridor program.
- Sec. 1810. Border planning, operations, technology, and capacity program.
- Sec. 1811. Puerto Rico highway program.
- Sec. 1812. National historic covered bridge preservation.
- Sec. 1813. Transportation and community and system preservation program.
- Sec. 1814. Parking pilot programs.
- Sec. 1815. Interstate oasis program.
- Sec. 1816. Tribal-State road maintenance agreements.
- Sec. 1817. National forest system roads.
- Sec. 1818. Territorial highway program.
- Sec. 1819. Magnetic levitation transportation technology deployment program.
- Sec. 1820. Donations and credits.
- Sec. 1821. Disadvantaged business enterprises.
- Sec. 1822. [Reserved].
- Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.
- Sec. 1824. The Delta Regional Authority.
- Sec. 1825. Multistate international corridor development program.
- Sec. 1826. Authorization of contract authority for States with Indian Reservations.

##### Subtitle I—Technical Corrections

- Sec. 1901. Repeal or update of obsolete text.
- Sec. 1902. Clarification of date.
- Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
- Sec. 1904. Inclusion of Buy America requirements in title 23.
- Sec. 1905. Technical amendments to non-discrimination section.

#### TITLE II—TRANSPORTATION RESEARCH

##### Subtitle A—Funding

- Sec. 2001. Authorization of appropriations.
- Sec. 2002. Obligation ceiling.
- Sec. 2003. Notice.

##### Subtitle B—Research and Technology

- Sec. 2101. Research and technology program.
- Sec. 2102. Study of data collection and statistical analysis efforts.
- Sec. 2103. Centers for surface transportation excellence.
- Sec. 2104. Motorcycle crash causation study grants.
- Sec. 2105. Transportation technology innovation and demonstration program.

##### Subtitle C—Intelligent Transportation System Research

- Sec. 2201. Intelligent transportation system research and technical assistance program.

#### TITLE III—RECREATIONAL BOATING SAFETY PROGRAMS

- Sec. 3001. Short title.

- Sec. 3002. Amendment of Federal aid in Fish Restoration Act.
- Sec. 3003. Authorization of appropriations.
- Sec. 3004. Division of annual appropriations.
- Sec. 3005. Maintenance of projects.
- Sec. 3006. Boating infrastructure.
- Sec. 3007. Requirements and restrictions concerning use of amounts for expenses for administration.
- Sec. 3008. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
- Sec. 3009. Multistate conservation grant program.

**TITLE IV—SOLID WASTE DISPOSAL**

- Sec. 4001. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
- Sec. 4002. Use of granular mine tailings.

**SEC. 2. GENERAL DEFINITIONS.**

In this Act:

- (1) DEPARTMENT.—The term “Department” means the Department of Transportation.
- (2) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

**SEC. 3. DEFINITIONS FOR TITLE 23.**

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) DEFINITIONS.—In this title:

“(1) APPORTIONMENT.—The term ‘apportionment’ includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.

“(2) CARPOOL PROJECT.—

“(A) IN GENERAL.—The term ‘carpool project’ means any project to encourage the use of carpools and vanpools.

“(B) INCLUSIONS.—The term ‘carpool project’ includes a project—

- “(i) to provide carpooling opportunities to the elderly and individuals with disabilities;
- “(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;
- “(iii) to acquire vehicles for carpool use;
- “(iv) to designate highway lanes as preferential carpool highway lanes;
- “(v) to provide carpool-related traffic control devices; and
- “(vi) to designate facilities for use for preferential parking for carpools.

“(3) CONSTRUCTION.—

“(A) IN GENERAL.—The term ‘construction’ means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

“(B) INCLUSIONS.—The term ‘construction’ includes—

- “(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);
- “(ii) resurfacing, restoration, and rehabilitation;
- “(iii) acquisition of rights-of-way;
- “(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;
- “(v) elimination of hazards of railway grade crossings;
- “(vi) elimination of roadside obstacles;

“(vii) improvements that directly facilitate and control traffic flow, such as—

- “(I) grade separation of intersections;
- “(II) widening of lanes;
- “(III) channelization of traffic;
- “(IV) traffic control systems; and
- “(V) passenger loading and unloading areas;

“(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

- “(I) scales (fixed and portable);
- “(II) scale pits;
- “(III) scale installation; and
- “(IV) scale houses;
- “(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;
- “(x) operating costs relating to traffic monitoring, management, and control;
- “(xi) operational improvements; and
- “(xii) transportation system management and operations.

“(4) COUNTY.—The term ‘county’ includes—

- “(A) a corresponding unit of government under any other name in a State that does not have county organizations; and
- “(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

“(5) FEDERAL-AID HIGHWAY.—

“(A) IN GENERAL.—The term ‘Federal-aid highway’ means a highway eligible for assistance under this chapter.

“(B) EXCLUSIONS.—The term ‘Federal-aid highway’ does not include a highway classified as a local road or rural minor collector.

“(6) FEDERAL-AID SYSTEM.—The term ‘Federal-aid system’ means any of the Federal-aid highway systems described in section 103.

“(7) FEDERAL LANDS HIGHWAY.—The term ‘Federal lands highway’ means—

- “(A) a forest highway;
- “(B) a recreation road;
- “(C) a public Forest Service road;
- “(D) a park road;
- “(E) a parkway;
- “(F) a refuge road;
- “(G) an Indian reservation road; and
- “(H) a public lands highway.

“(8) FOREST HIGHWAY.—The term ‘forest highway’ means a forest road that is—

- “(A) under the jurisdiction of, and maintained by, a public authority; and
- “(B) is open to public travel.

“(9) FOREST ROAD OR TRAIL.—

“(A) IN GENERAL.—The term ‘forest road or trail’ means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

“(B) INCLUSIONS.—The term ‘forest road or trail’ includes—

- “(i) a classified forest road;
- “(ii) an unclassified forest road;
- “(iii) a temporary forest road; and
- “(iv) a public forest service road.

“(10) FREIGHT TRANSPORTATION GATEWAY.—

“(A) IN GENERAL.—The term ‘freight transportation gateway’ means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

“(B) INCLUSIONS.—The term ‘freight transportation gateway’ includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

“(11) HIGHWAY.—The term ‘highway’ includes—

- “(A) a road, street, and parkway;
- “(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

“(C) a portion of any interstate or inter-national bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

“(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term ‘highway safety improvement project’ means a project that meets the requirements of section 148.

“(13) INDIAN RESERVATION ROAD.—

“(A) IN GENERAL.—The term ‘Indian reservation road’ means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

“(B) AREAS.—The areas referred to in subparagraph (A) are—

- “(i) an Indian reservation;
- “(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and
- “(iii) an Indian or Alaska Native village, group, or community.

“(14) INTERSTATE SYSTEM.—The term ‘Interstate System’ means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

“(15) MAINTENANCE.—

“(A) IN GENERAL.—The term ‘maintenance’ means the preservation of a highway.

“(B) INCLUSIONS.—The term ‘maintenance’ includes the preservation of—

- “(i) the surface, shoulders, roadsides, and structures of a highway; and
- “(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

“(16) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term ‘National Forest System road or trail’ means a forest road or trail that is under the jurisdiction of the Forest Service.

“(18) NATIONAL HIGHWAY SYSTEM.—The term ‘National Highway System’ means the Federal-aid highway system described in section 103(b).

“(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term ‘operating costs for traffic monitoring, management, and control’ includes—

- “(A) labor costs;
- “(B) administrative costs;
- “(C) costs of utilities and rent;
- “(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and
- “(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

- “(i) an integrated traffic control system;
- “(ii) an incident management program; and

“(iii) a traffic control center.

“(20) OPERATIONAL IMPROVEMENT.—

“(A) IN GENERAL.—The term ‘operational improvement’ means—

- “(i) a capital improvement for installation or implementation of—

“(I) a transportation system management and operations program;

“(II) traffic and transportation security surveillance and control equipment;

“(III) a computerized signal system;

“(IV) a motorist information system;

“(V) an integrated traffic control system;

“(VI) an incident management program;

“(VII) equipment and programs for transportation response to manmade and natural disasters; or

“(VIII) a transportation demand management facility, strategy, or program; and

“(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

“(B) EXCLUSIONS.—The term ‘operational improvement’ does not include—

“(i) a resurfacing, restorative, or rehabilitative improvement;

“(ii) construction of an additional lane, interchange, or grade separation; or

“(iii) construction of a new facility on a new location.

“(21) PARK ROAD.—The term ‘park road’ means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

“(22) PARKWAY.—The term ‘parkway’ means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

“(23) PROJECT.—The term ‘project’ means—

“(A)(i) an undertaking to construct a particular portion of a highway; or

“(ii) if the context so implies, a particular portion of a highway so constructed; and

“(B) any other undertaking eligible for assistance under this title.

“(24) PROJECT AGREEMENT.—The term ‘project agreement’ means the formal instrument to be executed by the Secretary and recipient of funds under this title.

“(25) PUBLIC AUTHORITY.—The term ‘public authority’ means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

“(26) PUBLIC FOREST SERVICE ROAD.—The term ‘public Forest Service road’ means a classified forest road—

“(A) that is open to public travel;

“(B) for which title and maintenance responsibility is vested in the Federal Government; and

“(C) that has been designated a public road by the Forest Service.

“(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term ‘public lands development roads and trails’ means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

“(28) PUBLIC LANDS HIGHWAY.—The term ‘public lands highway’ means—

“(A) a forest road that is—

“(i) under the jurisdiction of, and maintained by, a public authority; and

“(ii) open to public travel; and

“(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

“(i) under the jurisdiction of, and maintained by, a public authority; and

“(ii) open to public travel.

“(29) PUBLIC ROAD.—The term ‘public road’ means any road or street that is—

“(A) under the jurisdiction of, and maintained by, a public authority; and

“(B) open to public travel.

“(30) RECREATIONAL ROAD.—The term ‘recreational road’ means a public road—

“(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

“(B) for which title is vested in the Federal Government.

“(31) REFUGE ROAD.—The term ‘refuge road’ means a public road—

“(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

“(B) for which title and maintenance responsibility is vested in the United States Government.

“(32) RURAL AREA.—The term ‘rural area’ means an area of a State that is not included in an urban area.

“(33) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(34) STATE.—The term ‘State’ means—

“(A) a State;

“(B) the District of Columbia; and

“(C) the Commonwealth of Puerto Rico.

“(35) STATE FUNDS.—The term ‘State funds’ includes funds that are—

“(A) raised under the authority of the State (or any political or other subdivision of a State); and

“(B) made available for expenditure under the direct control of the State transportation department.

“(36) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

“(37) TERRITORIAL HIGHWAY SYSTEM.—The term ‘territorial highway system’ means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

“(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term ‘transportation enhancement activity’ means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

“(A) Provision of facilities for pedestrians and bicycles.

“(B) Provision of safety and educational activities for pedestrians and bicyclists.

“(C) Acquisition of scenic easements or scenic or historic sites (including historic battlefields).

“(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

“(E) Landscaping and other scenic beautification.

“(F) Historic preservation.

“(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

“(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

“(I) Control and removal of outdoor advertising.

“(J) Archaeological planning and research.

“(K) Environmental mitigation—

“(i) to address water pollution due to highway runoff; or

“(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

“(L) Establishment of transportation museums.

“(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

“(A) IN GENERAL.—The term ‘transportation systems management and operations’ means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

“(B) INCLUSIONS.—The term ‘transportation systems management and operations’ includes—

“(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

“(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

“(40) URBAN AREA.—The term ‘urban area’ means—

“(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

“(B) an urban place designated by the Bureau of the Census that—

“(i) has a population of 5,000 or more;

“(ii) is not located within any urbanized area; and

“(iii) is located within boundaries that—

“(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

“(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

“(41) URBANIZED AREA.—The term ‘urbanized area’ means an area that—

“(A) has a population of 50,000 or more;

“(B) is designated by the Bureau of the Census; and

“(C) is located within boundaries that—

“(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

“(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.”

## TITLE I—FEDERAL-AID HIGHWAYS

### Subtitle A—Funding

#### SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) \$5,799,188,130 for fiscal year 2005;

(B) \$6,032,059,334 for fiscal year 2006;

(C) \$6,049,378,729 for fiscal year 2007;

(D) \$6,351,069,528 for fiscal year 2008; and

(E) \$6,443,591,248 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) \$7,054,146,316 for fiscal year 2005;

(B) \$7,333,629,462 for fiscal year 2006;

(C) \$7,354,650,712 for fiscal year 2007;

(D) \$7,720,825,041 for fiscal year 2008; and  
 (E) \$7,833,068,496 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—  
 (A) \$4,970,732,691 for fiscal year 2005;  
 (B) \$5,157,180,500 for fiscal year 2006;  
 (C) \$5,141,987,920 for fiscal year 2007;  
 (D) \$5,429,922,039 for fiscal year 2008; and  
 (E) \$5,509,052,458 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—  
 (A) \$7,318,023,129 for fiscal year 2005;  
 (B) \$7,597,631,986 for fiscal year 2006;  
 (C) \$7,619,446,491 for fiscal year 2007;  
 (D) \$7,999,438,719 for fiscal year 2008; and  
 (E) \$8,116,064,782 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—  
 (A) \$1,979,088,016 for fiscal year 2005;  
 (B) \$2,049,058,323 for fiscal year 2006;  
 (C) \$2,054,941,629 for fiscal year 2007;  
 (D) \$2,157,424,382 for fiscal year 2008; and  
 (E) \$2,188,954,810 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—  
 (A) \$1,196,657,870 for fiscal year 2005;  
 (B) \$1,234,248,870 for fiscal year 2006;  
 (C) \$1,246,818,516 for fiscal year 2007;  
 (D) \$1,308,999,063 for fiscal year 2008; and  
 (E) \$1,328,233,842 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, \$532,518,499 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, \$54,154,424 for each of fiscal years 2005 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—  
 (A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—  
 (i) \$290,251,572 for fiscal year 2005;  
 (ii) \$312,578,616 for fiscal year 2006;  
 (iii) \$334,905,660 for fiscal year 2007;  
 (iv) \$357,232,704 for fiscal year 2008; and  
 (v) \$379,559,748 for fiscal year 2009.  
 (B) RECREATION ROADS.—For recreation roads under section 204 of that title, \$44,654,088 for each of fiscal years 2005 through 2009.  
 (C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—  
 (i) \$276,855,346 for fiscal year 2005; and  
 (ii) \$285,786,164 for each of fiscal years 2006 through 2009.  
 (D) REFUGE ROADS.—For refuge roads under section 204 of that title, \$26,792,453 for each of fiscal years 2005 through 2009.  
 (E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, \$267,924,258 for each of fiscal years 2005 through 2009.  
 (F) SAFETY.—For safety under section 204 of that title, \$35,723,270 for each of fiscal years 2005 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—  
 (A) \$120,566,038 for fiscal year 2005;  
 (B) \$140,660,377 for fiscal year 2006;  
 (C) \$160,754,717 for fiscal year 2007;  
 (D) \$180,849,057 for fiscal year 2008; and  
 (E) \$200,943,396 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—  
 (A) \$120,566,038 for fiscal year 2005;  
 (B) \$140,660,377 for fiscal year 2006;  
 (C) \$160,754,717 for fiscal year 2007;  
 (D) \$180,849,057 for fiscal year 2008; and

(E) \$200,943,396 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—  
 (A) \$31,257,862 for fiscal year 2005;  
 (B) \$32,150,943 for fiscal year 2006;  
 (C) \$33,044,025 for fiscal year 2007; and  
 (D) \$34,830,189 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title \$0 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, \$54,154,424 for each of fiscal years 2005 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—  
 (A) \$129,496,855 for fiscal year 2005;  
 (B) \$133,069,182 for fiscal year 2006;  
 (C) \$137,534,591 for fiscal year 2007;  
 (D) \$142,893,082 for fiscal year 2008; and  
 (E) \$145,572,327 for fiscal year 2009.

(16) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—For the public-private partnerships pilot program under section 109(c)(3) of that title, \$8,930,818 for each of fiscal years 2005 through 2009.

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105-277), \$26,792,453 for each of fiscal years 2005 through 2009.

(18) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, \$71,446,541 for each of fiscal years 2005 through 2009.

(19) INTERMODAL PASSENGER FACILITIES.—For intermodal passenger facilities under subchapter III of chapter 55 of title 49, United States Code, \$8,930,818 for each of fiscal years 2005 through 2009.

**SEC. 1102. OBLIGATION CEILING.**  
 (a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—  
 (1) \$34,425,380,000 for fiscal year 2005;  
 (2) \$37,154,999,523 for fiscal year 2006;  
 (3) \$37,450,167,691 for fiscal year 2007;  
 (4) \$38,816,364,417 for fiscal year 2008; and  
 (5) \$40,321,257,845 for fiscal year 2009.  
 (b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—  
 (1) section 125 of title 23, United States Code;  
 (2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);  
 (3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97-134; 95 Stat. 1701);  
 (4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424; 96 Stat. 2119);  
 (5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17; 101 Stat. 198);  
 (6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2027);  
 (7) section 157 of title 23, United States Code (as in effect on June 8, 1998);  
 (8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to \$639,000,000 for each of those fiscal years);  
 (9) Federal-aid highway programs for which obligation authority was made avail-

able under the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and  
 (10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to \$639,000,000 per fiscal year).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 through 2009, the Secretary—  
 (1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—  
 (A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;  
 (B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and  
 (C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;  
 (2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;  
 (3) shall determine the ratio that—  
 (A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to  
 (B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);  
 (4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—  
 (A) the ratio determined under paragraph (3); by  
 (B) the sums authorized to be appropriated for that section for the fiscal year;  
 (5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—  
 (A) the ratio determined under paragraph (3); by  
 (B) the amounts authorized to be appropriated for each such program for the fiscal year; and  
 (6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$639,000,000,



and the Appalachian development highway system program) that are apportioned to the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2005 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) \$415,283,019 for fiscal year 2005;

(2) \$428,679,245 for fiscal year 2006;

(3) \$442,075,472 for fiscal year 2007;

(4) \$455,471,698 for fiscal year 2008; and

(5) \$468,867,925 for fiscal year 2009.

(j) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1) of title 23, United States Code, is amended by striking “\$36,400,000” and insert “\$44,654,088”.

#### SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

“(1) \$415,283,019 for fiscal year 2005;

“(2) \$428,679,245 for fiscal year 2006;

“(3) \$442,075,472 for fiscal year 2007;

“(4) \$455,471,698 for fiscal year 2008; and

“(5) \$468,867,925 for fiscal year 2009.

(2) PURPOSES.—The funds authorized by this subsection shall be used—

“(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

“(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

“(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.”.

(2) CONFORMING AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking “the deduction authorized by subsection (a) and”; and

(B) in the first sentence of subsection (e)(1), by striking “, and also” and all that follows through “this section”; and

(C) in subsection (i), by striking “deducted” and inserting “made available”.

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.”;

(2) in paragraph (2), by striking “per centum” and inserting “percent”; and

(3) in paragraph (3)—

(A) by striking “The funds” and inserting the following:

“(A) IN GENERAL.—The funds”; and

(B) by striking “These funds” and all that follows and inserting the following:

“(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.”; and

(4) by adding at the end the following:

“(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.”.

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking “1998 through 2002” and inserting “2005 through 2009”.

#### SEC. 1104. EQUITY BONUS PROGRAM.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

##### “§ 105. Equity bonus program

“(a) PROGRAM.—

“(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

“(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the bridge program under section 144;

“(D) the surface transportation program under section 133;

“(E) the highway safety improvement program under section 148;

“(F) the congestion mitigation and air quality improvement program under section 149;

“(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

“(H) the infrastructure performance and maintenance program under section 139;

“(I) the equity bonus program under this section;

“(J) the Appalachian development highway system program under subtitle IV of title 40;

“(K) the recreational trails program under section 206;

“(L) the safe routes to schools program under section 150; and

“(M) the rail-highway grade crossing program under section 130.

“(b) STATE PERCENTAGE.—

“(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

“(A) 92 percent of the quotient obtained by dividing—

“(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

“(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

“(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, a median household income of less than \$35,000, as reported in that decennial census, or a State with a fatality rate during 2002 on Interstate highways that is greater than 1 fatality for each 100,000,000 vehicle miles traveled on Interstate highways, the greater of—

“(i) the percentage under paragraph (1); or

“(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

“(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005)—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the bridge program under section 144;

“(D) the surface transportation program under section 133;

“(E) the recreational trails program under section 206;

“(F) the high priority projects program under section 117;

“(G) the minimum guarantee provided under this section;

“(H) revenue aligned budget authority amounts provided under section 110;

“(I) the congestion mitigation and air quality improvement program under section 149;

“(J) the Appalachian development highway system program under subtitle IV of title 40; and

“(K) metropolitan planning programs under section 104(f).

“(c) SPECIAL RULES.—

“(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

“(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

“(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

“(d) LIMITATION ON ADJUSTMENTS.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

“(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

“(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

“(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

“(A) for fiscal year 2005, 119 percent;

“(B) for fiscal year 2006, 122 percent;

“(C) for fiscal year 2007, 123 percent;

“(D) for fiscal year 2008, 128 percent; and

“(E) for fiscal year 2009, 250 percent.

“(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be

apportioned under this section by the proportion that—

“(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

“(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

“(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

“105. Equity bonus program.”

**SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking “2000” and inserting “2006”;

(B) in paragraph (1), by inserting “(as in effect on September 30, 2002)” after “(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))”; and

(C) in paragraph (2)—

(i) by striking “If the amount” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount”;

(ii) by inserting “(as in effect on September 30, 2002)” after “(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc))”;

(iii) by striking “the succeeding” and inserting “that”;

(iv) by striking “and the motor carrier safety grant program”;

(v) by adding at the end the following:

“(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds \$6,000,000,000.”

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

“(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; bears to”;

(3) in subsection (c), by inserting “the highway safety improvement program,” after “the surface transportation program,”; and

(4) by striking subsections (e), (f), and (g).

**Subtitle B—New Programs**

**SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

**“§ 139. Infrastructure performance and maintenance program**

“(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

“(b) ELIGIBLE PROJECTS.—A State may obligate funds allocated to the State under this section only for projects eligible under the

Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

“(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements and hurricane evacuation routes on the Federal-aid system; or

“(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion or through transportation systemic changes to manage or ameliorate congestion.

“(c) PERIOD OF AVAILABILITY.—

“(1) OBLIGATION WITHIN 180 DAYS.—

“(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

“(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

“(2) OBLIGATION BY END OF FISCAL YEAR.—

“(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

“(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

**(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—**

“(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

“(A) withdraw—

“(i) any funds allocated to a State under this section that remain unobligated; and

“(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; and

“(B) reallocate the funds and redistribute the obligation authority to those States that—

“(i) have fully obligated all amounts allocated under this section for the fiscal year; and

“(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

“(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

“(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

“139. Infrastructure performance and maintenance program.”

**SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.**

(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended—

(1) by striking “(b) It is hereby declared to be” and inserting the following:

“(b) DECLARATION OF POLICY.—

“(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is”;

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century."

(b) NATIONAL SURFACE TRANSPORTATION SYSTEM STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a complete investigation and study of the current condition and future needs of the surface transportation system of the United States, including—

- (i) the National Highway System;
- (ii) the Interstate System;
- (iii) the strategic highway network;
- (iv) congressional high priority corridors;
- (v) intermodal connectors;
- (vi) freight facilities;
- (vii) navigable waterways;
- (viii) mass transportation;
- (ix) freight and intercity passenger rail infrastructure and facilities; and
- (x) surface access to airports; and

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes.

(2) SPECIFIC ISSUES.—In conducting the investigation and study, the Secretary shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system, including funding needs and potential approaches to provide funds.

(3) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined appropriate by the Secretary to ensure a diverse range of views.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make readily available to the public, a report on the results of the investiga-

tion and study conducted under this subsection.

**SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.**

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following: "**§ 325. Freight transportation gateways**

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator.

"(B) DUTIES.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) INNOVATIVE FINANCE STRATEGIES.—

"(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

“(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

“(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

“(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

“(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

“(B) may involve the combining of private and public funds.”.

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (1) the following:

“(12) Intermodal freight transportation projects in accordance with section 325(d)(2).”.

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

“(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

“(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

“(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled ‘Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals’ dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

“(ii) strategic highway network connectors to strategic military deployment ports; and

“(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

“(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

“(i) the product obtained by multiplying—  
“(I) the total amount of funds apportioned to the State under section 104(b)(1); by

“(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

“(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

“(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

“(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

“(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.”.

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

“(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), except as otherwise provided in section 120, the Federal share of the total cost of the project shall be 90 percent.”.

(e) LENGTH LIMITATIONS.—Section 3111(e) of title 49, United States Code, is amended—

(1) by striking “The” and inserting the following:

“(1) IN GENERAL.—The”; and

(2) by adding at the end the following:

“(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of those qualifying highways to include—

“(A) strategic highway network connectors to strategic military deployment ports; and

“(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).”.

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

“325. Freight transportation gateways.”.

**SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.**

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

**“§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance**

“(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

“(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

“(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

“(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

“(A) carry the greatest number of passengers and vehicles;

“(B) carry the greatest number of passengers in passenger-only service; or

“(C) provide critical access to areas that are not well-served by other modes of surface transportation.

“(b) NON-CONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$54,154,424 for each fiscal year to carry out this section.

“(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall be available in advance of an annual appropriation.”.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended

by striking the item relating to section 147 and inserting the following:

“147. Construction of ferry boats and ferry terminal and maintenance facilities.”.

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

**SEC. 1205. DESIGNATION OF INTERSTATE HIGHWAYS.**

(a) DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.—

(1) DESIGNATION.—Interstate Route 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the “Daniel Patrick Moynihan Interstate Highway”.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

(b) DESIGNATION OF AMO HOUGHTON BYPASS.—

(1) DESIGNATION.—The 3-mile segment of Interstate Route 86 between the interchange of Interstate Route 86 with New York State Route 15 in the vicinity of Painted Post, New York, and the interchange of Interstate Route 86 with New York State Route 352 in the vicinity of Corning, New York, shall be known and designated as the “Amo Houghton Bypass”.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Amo Houghton Bypass.

**SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.**

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the “Administrator”) shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO-04-113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

(c) INNOVATIVE AND COST-EFFECTIVE MATERIALS.—The Secretary shall encourage and provide incentives to States to make maximum use of innovative and cost-effective materials and products in highway construction.

**Subtitle C—Finance**

**SEC. 1301. FEDERAL SHARE.**

Section 120 of title 23, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.”;

(2) in subsection (b)—

(A) by striking “Except as otherwise” and inserting the following:

“(1) IN GENERAL.—Except as otherwise”;

(B) by striking “shall be—” and all that follows and inserting “shall be 80 percent of the cost of the project.”; and

(C) by adding at the end the following:

“(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).”;

(3) by striking subsection (d) and inserting the following:

“(d) INCREASED FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

“(A) nontaxable Indian land;

“(B) public land (reserved or unreserved);

“(C) a national forest; or

“(D) a national park or monument.

“(2) AMOUNT.—

“(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

“(i) is equal to the percentage that—

“(I) the area of all land described in paragraph (1) in a State; bears to

“(II) the total area of the State; but

“(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

“(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.”.

#### SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

“(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

“(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

“(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

“(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

“(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

“(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

“(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

“(II) a State transportation department consents to the transfer of funds;

“(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

“(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

“(B) ADMINISTRATION.—

“(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

“(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

“(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

“(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

“(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

“(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

“(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

“(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

“(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.”.

#### SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking “category” and “offered into the capital markets”;

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

“(D) a project that—

“(i)(I) is a project for—

“(aa) a public freight rail facility or a private facility providing public benefit;

“(bb) an intermodal freight transfer facility;

“(cc) a means of access to a facility described in item (aa) or (bb);

“(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

“(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.”; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking “bond” and inserting “credit”.

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

“(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

“(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.”;

(B) in paragraph (3)(A)—

(i) in clause (i), by striking “\$100,000,000” and inserting “\$50,000,000”; and

(ii) in clause (ii), by striking “50” and inserting “20”; and

(C) in paragraph (4)—

(i) by striking “Project financing” and inserting “The Federal credit instrument”; and

(ii) by inserting before the period at the end the following: “that also secure the project obligations”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “criteria” the second place it appears and inserting “requirements”; and

(B) in paragraph (2)(B), by inserting “(which may be the Federal credit instrument)” after “obligations”.

(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “of any project selected under section 182.” at the end;

(ii) in subparagraphs (A) and (B), by inserting “of any project selected under section 182” after “costs”; and

(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and

(B) in paragraph (4)—

(i) by striking “funding” and inserting “execution”; and

(ii) by striking “rating,” and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

“(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—

“(A) 33 percent of the reasonably anticipated eligible project costs; or

“(B) the amount of the senior project obligations.”;

(B) in paragraph (3)(A)(i), by inserting “that also secure the senior project obligations” after “sources”; and

(C) in paragraph (4), by striking “marketable”; and

(3) in subsection (c)—

(A) by striking paragraph (3);

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

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking “during the 10 years”; and

(ii) in subparagraph (B)(ii), by striking “loan” and all that follows and inserting “loan.”.

(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking “interest, any debt service reserve fund, and any other available reserve” and inserting “interest (but not including reasonably required financing reserves)”;

(B) in paragraph (4), by striking “marketable United States Treasury securities as of the date on which the line of credit is obligated” and inserting “United States Treasury securities as of the date of execution of the line of credit agreement”; and

(C) in paragraph (5)(A)(i), by inserting “that also secure the senior project obligations” after “sources”; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “scheduled”;

(ii) by inserting “be scheduled to” after “shall”; and

(iii) by striking “be fully repaid, with interest,” and inserting “to conclude, with full repayment of principal and interest.”; and

(B) by striking paragraph (3).

(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:

**“§ 185. Program administration**

“(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

“(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

“(c) SERVICER.—

“(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

“(2) DUTIES.—The servicer shall act as the agent for the Secretary.

“(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

“(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.”.

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

**“§ 188. Funding**

“(a) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter \$116,100,629 for each of fiscal years 2005 through 2009.

“(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than \$1,786,164 for each of fiscal years 2005 through 2009.

“(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

“(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

“(B) the Secretary may accept and use payment or services provided by transaction

participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

“(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

“(b) CONTRACT AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

“(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.”.

(g) REPEAL.—Section 189 of title 23, United States Code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

“185. Program administration.”;

and

(2) by striking the item relating to section 189.

**SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.**

(a) IN GENERAL.—Chapter 317 of title 49, United States Code, is amended by adding at the end the following:

**“§ 31708. Facilitation of international registration plans and international fuel tax agreements**

“The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

“31708. Facilitation of international registration plans and international fuel tax agreements.”.

**SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND AND FINANCE THE NEEDS OF THE SURFACE TRANSPORTATION SYSTEM.**

(a) ESTABLISHMENT.—There is established a commission to be known as the “National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System” (referred to in this section as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 11 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 2 members shall be appointed by the minority leader of the House of Representatives;

(D) 2 members shall be appointed by the majority leader of the Senate; and

(E) 2 members shall be appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed under paragraph (1) shall have experience in or represent the interests of—

(A) public finance, including experience in developing State and local revenue resources;

(B) surface transportation program administration;

(C) organizations that use surface transportation facilities;

(D) academic research into related issues; or

(E) other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(4) TERMS.—A member shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(6) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(8) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(9) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) conduct the study in a manner that builds on—

(i) findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(ii) other relevant prior research;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State Departments of Transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(2) SPECIFIC MATTERS.—The study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-

term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(3) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been done by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board; and

(D) other entities and persons.

(4) FACTORS.—In developing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in non-taxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(5) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(d) POWERS.—

(1) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(4) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.

(e) COMMISSION PERSONNEL MATTERS.—

(1) MEMBERS.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) CONTRACTOR.—The Commission may contract with an appropriate organization, agency, or entity to conduct the study required under this section, under the strategic guidance of the Commission.

(3) ADMINISTRATIVE SUPPORT.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(4) DETAIL OF DEPARTMENT PERSONNEL.—

(A) IN GENERAL.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(5) COOPERATION.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(f) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(3) AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$2,679,245 for fiscal year 2005.

(h) TERMINATION.—

(1) IN GENERAL.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under subsection (c)(5).

(2) RECORDS.—Not later than the termination date for the Commission, all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

#### SEC. 1306. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking “Missouri,” and all that follows through “for the establishment” and inserting “Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment”.

#### SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

“(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

“(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

“(B) PROJECTS.—In carrying out the program, the Secretary shall—

“(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

“(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.”.

#### SEC. 1308. WAGERING.

(a) IN GENERAL.—Chapter 35 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 4901 of the Internal Revenue Code is amended to read as follows:

#### “SEC. 4901. PAYMENT OF TAX.

“All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.”.

(2) Section 4903 of such Code is amended by striking “, other than the tax imposed by section 4411.”.

(3) Section 4905 of such Code is amended to read as follows:

#### “SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

“When any person who has paid the special tax for any trade or business dies, his spouse or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary, under regulations to be prescribed by the Secretary.”.

(4) Section 4907 of such Code is amended by striking “, except the tax imposed by section 4411.”.

(5) Section 6103(i)(8)(A) of such Code is amended—

(A) by striking “, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other” and inserting “disclose any”, and

(B) by striking “such other officer” and inserting “such officer”.

(6) Section 6103(o) of such Code is amended to read as follows:

“(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.”.

(7)(A) Subchapter B of chapter 65 of such Code is amended by striking section 6419 (relating to excise tax on wagering).

(B) The table of section of subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(8) Section 6806 of such Code is amended by striking “under subchapter B of chapter 35, under subchapter B of chapter 36,” and inserting “under subchapter B of chapter 36”.

(9) Section 7012 of such Code is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(10)(A) Subchapter B of chapter 75 of such Code is amended by striking section 7262 (relating to violation of occupational tax laws relating to wagering-failure to pay special tax).

(B) The table of sections of subchapter B of chapter 75 of such Code is amended by striking the item relating to section 7262.

(11) Section 7272 of such Code, as amended by section 5244 of this Act, is amended to read as follows:

**“SEC. 7272. PENALTY FOR FAILURE TO REGISTER.**

“Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of \$50 (\$10,000 in the case of a failure to register under section 4101).”.

(12) Section 7613(a) is amended by striking “or other data in the case of” and all that follows and inserting “or other data in the case of alcohol, tobacco, and firearms taxes, see subtitle E.”.

(13) The table of chapters of subtitle D of such Code is amended by striking the item relating to chapter 35.

**(C) EFFECTIVE DATE.—**

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to wagers placed after the date of the enactment of this Act.

(2) SPECIAL TAXES.—In the case of amendments made by this section relating to special taxes imposed by subchapter B of chapter 35, the amendments made by this section shall take effect on July 1, 2005.

**Subtitle D—Safety**

**SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

**(a) SAFETY IMPROVEMENT.—**

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

**“§ 148. Highway safety improvement program**

“(a) DEFINITIONS.—In this section:

“(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘highway safety improvement program’ means the program carried out under this section.

“(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

“(A) IN GENERAL.—The term ‘highway safety improvement project’ means a project described in the State strategic highway safety plan that—

“(i) corrects or improves a hazardous road location or feature; or

“(ii) addresses a highway safety problem.

“(B) INCLUSIONS.—The term ‘highway safety improvement project’ includes a project for—

“(i) an intersection safety improvement;

“(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

“(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

“(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

“(v) an improvement for pedestrian or bicyclist safety;

“(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

“(II) construction of a railway-highway crossing safety feature; or

“(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

“(vii) construction of a traffic calming feature;

“(viii) elimination of a roadside obstacle;

“(ix) improvement of highway signage and pavement markings;

“(x) installation of a priority control system for emergency vehicles at signalized intersections;

“(xi) installation of a traffic control or other warning device at a location with high accident potential;

“(xii) safety-conscious planning;

“(xiii) improvement in the collection and analysis of crash data;

“(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

“(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

“(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

“(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

**“(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—**

“(A) IN GENERAL.—The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.

“(B) INCLUSION.—The term ‘safety project under any other section’ includes a project to—

“(i) promote the awareness of the public and educate the public concerning highway safety matters; or

“(ii) enforce highway safety laws.

“(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

“(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a plan developed by the State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

“(v) persons responsible for administering section 130 at the State level;

“(vi) representatives conducting Operation Lifesaver;

“(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

“(viii) motor vehicle administration agencies; and

“(ix) other major State and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, or local crash data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, public roads;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency; and

“(H) is consistent with the requirements of section 135(f).

**“(b) PROGRAM.—**

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

**“(c) ELIGIBILITY.—**

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

“(B) produces a program of projects or strategies to reduce identified safety problems;

“(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

“(D) submits to the Secretary an annual report that—

“(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

“(ii) contains an assessment of—

“(I) potential remedies to hazardous locations identified;

“(II) estimated costs associated with those remedies; and

“(III) impediments to implementation other than cost associated with those remedies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

“(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;



“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads;

“(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (e), for other safety projects.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

“(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

“(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

“(f) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes progress being made to implement highway safety improvement projects under this section;

“(B) assesses the effectiveness of those improvements; and

“(C) describes the extent to which the improvements funded under this section contribute to the goals of—

“(i) reducing the number of fatalities on roadways;

“(ii) reducing the number of roadway-related injuries;

“(iii) reducing the occurrences of roadway-related crashes;

“(iv) mitigating the consequences of roadway-related crashes; and

“(v) reducing the occurrences of roadway-railroad grade crossing crashes.

“(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

“(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

“(A) the Internet site of the Department; and

“(B) such other means as the Secretary determines to be appropriate.

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

“(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

“(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

“(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2005 through 2009, \$22,327,044 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled ‘Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)’ and dated October 2001.’.

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking “subparagraphs (C) and (D)” and inserting “subparagraph (C)”; and

(II) by striking “80 percent” and inserting “90 percent”;

(ii) in subparagraph (B), by striking “tobe” and inserting “to be”;

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking “paragraph (2)” and inserting “paragraph (1)”.

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking “(d)(2)” each place it appears and inserting “(d)(1)”.

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

“148. Highway safety improvement program.”.

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking “sections 130, 144, and 152 of this title” and inserting “sections 130 and 144”.

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting “under” after “State’s apportionment”; and

(ii) in subsection (b)—

(I) in the first sentence, by striking “the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)” and inserting “section 104(f) or 133(d)(2)”; and

(II) in the second sentence, by striking “or 133(d)(2)”.

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking “152” each place it appears and inserting “148”.

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after “Improvement program,” the following: “the highway safety improvement program.”; and

(2) by adding at the end the following:

“(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

“(i) 25 percent of the apportionments in the ratio that—

“(I) the total lane miles of Federal-aid highways in each State; bears to

“(II) the total lane miles of Federal-aid highways in all States.

“(ii) 40 percent of the apportionments in the ratio that—

“(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

“(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

“(iii) 35 percent of the apportionments in the ratio that—

“(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

“(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned under this paragraph.”.

(c) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before “At least” the following: “For each fiscal year, at least \$178,616,352 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.”.

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting “and the Committee on Commerce, Science, and Transportation,” after “Public Works”; and

(B) by striking “not later than April 1 of each year” and inserting “every other year”.

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

“(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be—

“(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

“(2) apportioned in accordance with section 104(b)(5).”.

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but certifies to the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

**SEC. 1402. OPERATION LIFESAVER.**

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking “subsection (b)(3)” and inserting “subsection (b)(5)”; and

(2) by striking “\$500,000” and inserting “\$535,849”.

**SEC. 1403. LICENSE SUSPENSION.**

Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) LICENSE SUSPENSION.—The term ‘license suspension’ means—

“(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

“(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, fol-

lowed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.”.

**SEC. 1404. BUS AXLE WEIGHT EXEMPTION.**

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

“(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

“(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

“(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

“(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

“(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.”.

**SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

**“§ 150. Safe routes to schools program**

“(a) DEFINITIONS.—In this section:

“(1) PRIMARY AND SECONDARY SCHOOL.—The term ‘primary and secondary school’ means a school that provides education to children in any of grades kindergarten through 12.

“(2) PROGRAM.—The term ‘program’ means the safe routes to schools program established under subsection (b).

“(3) VICINITY OF A SCHOOL.—The term ‘vicinity of a school’ means the area within 2 miles of a primary or secondary school.

“(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

“(c) PURPOSES.—The purposes of the program shall be—

“(1) to enable and to encourage children to walk and bicycle to school;

“(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

“(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

“(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

“(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

“(1) INFRASTRUCTURE-RELATED PROJECTS.—

(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

“(i) sidewalk improvements;

“(ii) traffic calming and speed reduction improvements;

“(iii) pedestrian and bicycle crossing improvements;

“(iv) on-street bicycle facilities;

“(v) off-street bicycle and pedestrian facilities;

“(vi) secure bicycle parking facilities;

“(vii) traffic signal improvements; and

“(viii) pedestrian-railroad grade crossing improvements.

“(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

“(i) any public road in the vicinity of a school; or

“(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

“(2) BEHAVIORAL ACTIVITIES.—

“(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

“(i) public awareness campaigns and outreach to press and community leaders;

“(ii) traffic education and enforcement in the vicinity of schools; and

“(iii) student sessions on bicycle and pedestrian safety, health, and environment.

“(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

“(f) FUNDING.—

“(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use \$62,515,723 to carry out this section.

“(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

“(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

“(4) FEDERAL SHARE.—Except as provided in sections 120 and 130, the Federal share of the cost of a project or activity funded under this section shall be 90 percent.

“(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.”.

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

“150. Safe routes to school program.”.

**SEC. 1406. PURCHASES OF EQUIPMENT.**

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

**“§ 152. Purchases of equipment**

“(a) IN GENERAL.—Subject to subsection (b), a State carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

“(b) APPLICABILITY.—This section shall apply to—

“(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of \$75,000; and

“(2) aerial work platforms with a purchase price in excess of \$25,000.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

“152. Purchases of equipment.”.

**SEC. 1407. WORKZONE SAFETY.**

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625)

is amended by adding at the end the following:

“(7) Recommending all federally-assisted projects in excess of \$15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than \$15,000,000.

“(8) Recommending federally-assisted projects the costs of which exceed \$15,000,000 to include work zone intelligent transportation systems that are—

“(A) provided by a qualified vendor; and

“(B) monitored continuously.

“(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.

“(10) Ensuring that any recommendation made under any of paragraphs (7) through (9) provides for an exemption for applicability to a State, with respect to a project or class of projects, to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by non-application of the requirement to the project or class of projects.”

**SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

**SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1824(a)), is amended by adding at the end the following:

**“§ 179. Identity authentication standards**

“(a) DEFINITION OF INFORMATION-BASED IDENTITY AUTHENTICATION.—In this section, the term ‘information-based identity authentication’ means the determination of the identity of an individual, through the comparison of information provided by a person, with other information pertaining to that individual with a system using scoring models and algorithms.

“(b) STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver’s license, or the renewal, transfer or upgrading, of a commercial driver’s license.

“(c) MINIMUM STANDARDS.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver’s licenses, (or the renewal, transfer, or upgrading of commercial driver’s licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver’s license.

“(d) KEY FACTORS.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

“(1) use multiple sources of matching information;

“(2) enable the measurement of the accuracy of the determination of an applicant’s identity;

“(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program; and

“(4) incorporate industry best practices to protect significant privacy interests in the information used in the program and the appropriate safeguarding of the storage of the information.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1824(b)), is amended by adding at the end the following:

“179. Identity authentication standards.”

**SEC. 1410. OPEN CONTAINER REQUIREMENTS.**

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) TRANSFER OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

<b>“For:</b>	<b>The applicable percentage is:</b>
Fiscal year 2008 .....	2 percent.
Fiscal year 2009 .....	2 percent.
Fiscal year 2010 .....	2 percent.
Fiscal year 2011 and each subsequent fiscal year .....	82 percent.

“(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.”

**Subtitle E—Environmental Planning and Review**

**CHAPTER 1—TRANSPORTATION PLANNING**

**SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.**

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after “environment” the following: “(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)”;

(ii) by inserting before the semicolon the following: “(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)”;

(B) in subparagraph (G), by inserting “and efficient use” after “preservation”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.”

(b) STATEWIDE PLANNING.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after “environment” the following: “(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)”;

(ii) by inserting before the semicolon the following: “(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)”;

(B) in subparagraph (G), by inserting “and efficient use” after “preservation”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.”

**SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.**

(a) IN GENERAL.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

“(B) MITIGATION ACTIVITIES.—

“(i) IN GENERAL.—A long-range transportation plan shall include a discussion of—

“(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.”;

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

(3) by inserting after paragraph (3) the following:

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve—

“(i) comparison of transportation plans with State conservation plans or with maps, if available;

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(iii) consideration of areas where wildlife crossing structures may be needed to ensure

connectivity between wildlife habitat linkage areas.”.

(b) IMPROVED CONSULTATION DURING STATE TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

- “(I) land use management;
- “(II) natural resources;
- “(III) environmental protection;
- “(IV) conservation; and
- “(V) historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

“(I) comparison of transportation plans to State conservation plans or maps, if available;

“(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.”.

(2) ADDITIONAL REQUIREMENTS.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A long-range transportation plan shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(5) TRANSPORTATION STRATEGIES.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.”.

**SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.**

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking “consider the results” and inserting “consider—

“(A) the results”;

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(B) the publication entitled ‘Flexibility in Highway Design’ of the Federal Highway Administration;

“(C) ‘Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design’ developed by the conference held during 1998 entitled ‘Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance’; and

“(D) any other material that the Secretary determines to be appropriate.”.

**SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.**

(a) METROPOLITAN PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking “Before approving” and inserting the following:

“(A) IN GENERAL.—Before approving”; and

(B) by adding at the end the following:

“(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.”.

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: “, including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web”.

(b) STATEWIDE PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.”.

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

“(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.”.

**SEC. 1505. PROJECT MITIGATION.**

(a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM PROJECTS.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

(1) by inserting “(j)” after “(M); and

(2) by adding at the end the following:

“(ii) State habitat, streams, and wetlands mitigation efforts under section 155.”.

(b) MITIGATION FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting “(A)” after “(11)”; and

(2) by adding at the end the following:

“(B) State habitat, streams, and wetlands mitigation efforts under section 155.”.

(c) STATE HABITAT, STREAMS, AND WETLANDS MITIGATION FUNDS.—Section 155 of title 23, United States Code, is amended to read as follows:

**“§ 155. State habitat, streams, and wetlands mitigation funds**

“(a) ESTABLISHMENT.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a ‘State fund’).

“(b) PURPOSE.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway or transit projects to—

“(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

“(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

“(c) FUNDS.—A State may deposit into a State fund part of the funds apportioned to the State under—

“(1) section 104(b)(1) for the National Highway System; and

“(2) section 104(b)(3) for the surface transportation program.

“(d) USE.—

“(1) IN GENERAL.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

“(2) ENDANGERED SPECIES.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

“(A) Federal or State listed threatened or endangered species of plants and animals; and

“(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

“(3) MITIGATION IN CLOSED BASINS.—

“(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

“(i) construction—

“(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

“(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

“(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

“(iii) monitoring and evaluations relating to proposed construction.

“(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

“(e) CONSISTENCY WITH APPLICABLE REQUIREMENTS.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).”.

(d) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

“155. State habitat, streams, and wetlands mitigation funds.”.

**CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS**

**SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.**

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

**“§ 326. Transportation project development process**

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ means any agency, department, or other unit of Federal, State, local, or federally recognized tribal government.

“(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ‘environmental impact statement’ means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(3) ENVIRONMENTAL REVIEW PROCESS.—

“(A) IN GENERAL.—The term ‘environmental review process’ means the process for preparing, for a project—

“(i) an environmental impact statement; or

“(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(B) INCLUSIONS.—The term ‘environmental review process’ includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(4) PROJECT.—The term ‘project’ means any highway or transit project that requires the approval of the Secretary.

“(5) PROJECT SPONSOR.—The term ‘project sponsor’ means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

“(6) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ means any statewide agency of a State with responsibility for transportation.

“(b) PROCESS.—

“(1) LEAD AGENCY.—

“(A) IN GENERAL.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

“(B) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) CONCURRENCE OF PROJECT SPONSOR.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

“(2) REQUEST FOR PROCESS.—

“(A) IN GENERAL.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

“(B) GRANT OF REQUEST; PUBLIC NOTICE.—The lead agency shall—

“(i) grant a request under subparagraph (A); and

“(ii) provide public notice of the request.

“(3) EFFECTIVE DATE.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

“(C) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

“(A) identify and invite cooperating agencies in accordance with subsection (d);

“(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

“(C) determine the purpose and need for the project in accordance with subsection (f);

“(D) determine the range of alternatives to be considered in accordance with subsection (g);

“(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

“(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

“(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

“(d) ROLES AND RESPONSIBILITIES OF COOPERATING AGENCIES.—

“(1) IN GENERAL.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

“(2) INVITATION.—

“(A) IN GENERAL.—The lead agency shall—

“(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

“(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

“(II) agencies with special expertise relevant to the project;

“(ii) invite the agencies identified in clause (i) to become participating agencies in the environmental review process for that project; and

“(iii) grant requests to become cooperating agencies from agencies not originally invited.

“(B) RESPONSES.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

“(i) shall be 30 days after the date of receipt by the agency of the invitation; but

“(ii) may be extended by the lead agency for good cause.

“(3) DECLINING OF INVITATIONS.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

“(A) has no jurisdiction or authority with respect to the project;

“(B) has no expertise or information relevant to the project; and

“(C) does not intend to submit comments on the project.

“(4) EFFECT OF DESIGNATION.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

“(A) supports a proposed project; or

“(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

“(5) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—

“(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

“(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

“(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

“(A) carry out obligations of the Federal agency under other applicable law concur-

rently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

“(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

“(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—

“(1) COORDINATION PLAN.—

“(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

“(B) WORKPLAN.—

“(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

“(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—

“(I) each cooperating agency for the project;

“(II) the State in which the project is located; and

“(III) if the State is not the project sponsor, the project sponsor.

“(C) SCHEDULE.—

“(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

“(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

“(I) the responsibilities of cooperating agencies under applicable laws;

“(II) resources available to the cooperating agencies;

“(III) overall size and complexity of a project;

“(IV) the overall schedule for and cost of a project; and

“(V) the sensitivity of the natural and historic resources that could be affected by the project.

“(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

“(E) MODIFICATION.—The lead agency may—

“(i) lengthen a schedule established under subparagraph (C) for good cause; and

“(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

“(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

“(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

“(ii) made available to the public.

“(2) COMMENTS AND TIMELINES.—

“(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—

“(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

“(ii) except as otherwise provided under paragraph (1)—

“(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

“(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

“(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

“(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.

“(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

“(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

“(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

“(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

“(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

“(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

“(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.

“(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft state-

ment of purpose and need for a proposed project received from the public and cooperating agencies.

“(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

“(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

“(6) CONTENTS.—

“(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

“(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

“(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:

“(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

“(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

“(C) Economic development plans adopted by—

“(i) units of State, local, or tribal government; or

“(ii) established economic development planning organizations or authorities.

“(D) Environmental protection plans, including plans for the protection or treatment of—

“(i) air quality;

“(ii) water quality and runoff;

“(iii) habitat needs of plants and animals;

“(iv) threatened and endangered species;

“(v) invasive species;

“(vi) historic properties; and

“(vii) other environmental resources.

“(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

“(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

“(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

“(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

“(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

“(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

“(B) ALTERNATIVES.—The lead agency shall consider—

“(i) alternatives that meet the purpose and need of the project; and

“(ii) the alternative of no action.

“(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

“(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

“(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

“(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

“(A) The overall size and complexity of the proposed action.

“(B) The sensitivity of the potentially affected resources.

“(C) The overall schedule and cost of the project.

“(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

“(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

“(F) Economic development plans adopted by—

“(i) units of State, local, or tribal government; or

“(ii) established economic development planning organizations or authorities.

“(G) environmental protection plans, including plans for the protection or treatment of—

“(i) air quality;

“(ii) water quality and runoff;

“(iii) habitat needs of plants and animals;

“(iv) threatened and endangered species;

“(v) invasive species;

“(vi) historic properties; and

“(vii) other environmental resources.

“(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

“(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

“(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

“(A) delay completion of the environmental review process; or

“(B) result in denial of any approvals required for the project under applicable laws.

“(2) LEAD AGENCY RESPONSIBILITIES.—

“(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

“(i) the environmental and socioeconomic resources located within the project area; and

“(ii) the general locations of the alternatives under consideration.

“(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

“(3) COOPERATING AGENCY RESPONSIBILITIES.—

“(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

“(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from

granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

“(4) **ISSUE RESOLUTION.**—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

“(5) **NOTIFICATION.**—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

“(A) the heads of all cooperating agencies;  
“(B) the project sponsor;  
“(C) the Governor involved;  
“(D) the Committee on Environment and Public Works of the Senate; and  
“(E) the Committee on Transportation and Infrastructure of the House of Representatives.

“(i) **PERFORMANCE MEASUREMENT.**—

“(1) **PROGRESS REPORTS.**—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

“(2) **MINIMUM REQUIREMENTS.**—The program shall include, at a minimum—

“(A) the establishment of criteria for measuring consideration of—

“(i) State and metropolitan planning, project planning, and design criteria; and  
“(ii) environmental processing times and costs;

“(B) the collection of data to assess performance based on the established criteria; and

“(C) the annual reporting of the results of the performance measurement studies.

“(3) **INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.**—

“(A) **IN GENERAL.**—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

“(B) **PUBLIC PARTICIPATION.**—In conducting the survey, the Secretary shall solicit comments from the public.

“(j) **ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.**—

“(1) **IN GENERAL.**—The Secretary may approve a request by a State or recipient to provide funds made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order to provide the resources necessary to meet any time limits established under this section.

“(2) **AMOUNTS.**—Such requests under paragraph (1) shall be approved only—

“(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

“(B) if those time limits are less than the customary time necessary for that review.

“(k) **JUDICIAL REVIEW AND SAVINGS CLAUSE.**—

“(1) **JUDICIAL REVIEW.**—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

“(2) **SAVINGS CLAUSE.**—Nothing in this section shall affect—

“(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

“(B) the responsibility of any Federal officer to comply with or enforce such a statute.”.

(b) **CONFORMING AMENDMENTS.**—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

“326. Transportation project development process.”.

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

**SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.**

(a) **IN GENERAL.**—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

“§ 327. Assumption of responsibility for categorical exclusions

“(a) **CATEGORICAL EXCLUSION DETERMINATIONS.**—

“(1) **IN GENERAL.**—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

“(2) **SCOPE OF AUTHORITY.**—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

“(3) **CRITERIA.**—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(b) **OTHER APPLICABLE FEDERAL LAWS.**—

“(1) **IN GENERAL.**—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

“(2) **SOLE RESPONSIBILITY.**—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

“(c) **MEMORANDA OF UNDERSTANDING.**—

“(1) **IN GENERAL.**—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

“(2) **TERM.**—A memorandum of understanding—

“(A) shall have term of not more than 3 years; and

“(B) shall be renewable.

“(3) **ACCEPTANCE OF JURISDICTION.**—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

“(4) **MONITORING.**—The Secretary shall—

“(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

“(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

“(d) **TERMINATION.**—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

“(e) **STATE AGENCY DEEMED TO BE FEDERAL AGENCY.**—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.”.

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

“327. Assumption of responsibility for categorical exclusions.”.

**SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.**

(a) **IN GENERAL.**—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

“§ 328. Surface transportation project delivery pilot program

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the ‘program’).

“(2) **ASSUMPTION OF RESPONSIBILITY.**—

“(A) **IN GENERAL.**—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(B) **ADDITIONAL RESPONSIBILITY.**—If a State assumes responsibility under subparagraph (A)—

“(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

“(ii) the Secretary may not assign—

“(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

“(II) any responsibility imposed on the Secretary by section 134 or 135.

“(C) **PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.**—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

“(D) **FEDERAL RESPONSIBILITY.**—Any responsibility of the Secretary not explicitly assumed by the State by written agreement

under this section shall remain the responsibility of the Secretary.

“(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

“(b) STATE PARTICIPATION.—

“(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

“(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

“(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

“(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

“(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

“(3) PUBLIC NOTICE.—

“(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

“(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

“(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

“(A) the regulatory requirements under paragraph (2) have been met;

“(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

“(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

“(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

“(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

“(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

“(2) be in such form as the Secretary may prescribe;

“(3) provide that the State—

“(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

“(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

“(C) certifies that State laws (including regulations) are in effect that—

“(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

“(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

“(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

“(d) JURISDICTION.—

“(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

“(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

“(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

“(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

“(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

“(g) AUDITS.—

“(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

“(A) semiannual audits during each of the first 2 years of State participation; and

“(B) annual audits during each subsequent year of State participation.

“(2) PUBLIC AVAILABILITY AND COMMENT.—

“(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

“(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

“(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

“(i) TERMINATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

“(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

“(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

“(B) the Secretary provides to the State—

“(i) notification of the determination of noncompliance; and

“(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

“(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

“328. Surface transportation project delivery pilot program.”

**SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.**

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “It is hereby” and inserting the following:

“(a) DECLARATION OF POLICY.—It is”; and

(B) by adding at the end the following:

“(b) DE MINIMIS IMPACTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

“(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

“(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

“(i) the transportation program or project will have no adverse effect on the historic site; or

“(ii) there will be no historic properties affected by the transportation program or project;

“(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

“(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

“(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

“(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.”

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking “(c) The Secretary” and inserting the following:

“(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary”; and

(B) by adding at the end the following:

“(d) DE MINIMIS IMPACTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection,



that a transportation program or project will have a de minimis impact on the area.

“(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

“(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

“(i) the transportation program or project will have no adverse effect on the historic site; or

“(ii) there will be no historic properties affected by the transportation program or project;

“(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

“(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

“(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

“(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.”.

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary and the Transportation Research Board of the National Academy of Sciences shall jointly conduct a study on the implementation of this section and the amendments made by this section.

(2) COMPONENTS.—In conducting the study, the Secretary and the Transportation Research Board shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commit-

ments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary and the Transportation Research Board shall prepare—

(A) not earlier than the date that is 4 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than September 30, 2009, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary and the Transportation Research Board shall—

(A) submit the report and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

#### SEC. 1515. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

### CHAPTER 3—MISCELLANEOUS

#### SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

“(d) CRITICAL REAL PROPERTY ACQUISITION.—

“(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

“(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition—

“(A) the Secretary determines that the property is offered for sale on the open market;

“(B) the Secretary determines that in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

“(C) the State determines that immediate acquisition of the property is critical because—

“(i) based on an appraisal of the property, the value of the property is increasing significantly;

“(ii) there is an imminent threat of development or redevelopment of the property; and

“(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

“(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

“(4) ENVIRONMENTAL REVIEW.—

“(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until all required environmental reviews for the project have been completed.

“(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a

project shall not affect the consideration of project alternatives during the environmental review process.

“(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).”.

#### SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

“(m) PLANNING CAPACITY BUILDING INITIATIVE.—

“(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

“(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

“(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

“(C) participate in the metropolitan and statewide transportation planning programs under this title; and

“(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

“(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

“(A) the transportation elements of homeland security planning, including—

“(i) training and best practices relating to emergency evacuation;

“(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

“(iii) developing training on how planning organizations may examine security issues;

“(B) performance-based planning, including—

“(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

“(I) participate in transportation planning;

“(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

“(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

“(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

“(ii) improvement of the quality of congestion management systems, including the development of—

“(I) a measure of congestion;

“(II) a measure of transportation system reliability; and

“(III) a measure of induced demand;

“(C) safety planning, including—

“(i) development of State strategic safety plans consistent with section 148;

“(ii) incorporation of work zone safety into planning; and

“(iii) training in the development of data systems relating to highway safety;

“(D) operations planning, including—

“(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

“(ii) training and best practices relating to regional concepts of operations;

“(E) freight planning, including—

“(i) modeling of freight at a regional and statewide level; and

“(ii) techniques for engaging the freight community with the planning process;

“(F) air quality planning, including—

“(i) assisting new and existing nonattainment and maintenance areas in developing

the technical capacity to perform air quality conformity analysis;

“(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

“(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

“(iv) developing materials to explain air quality issues to decisionmakers and the public; and

“(G) integration of environment and planning.

“(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

“(4) SET-ASIDE.—

“(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside \$3,572,327 to carry out this subsection.

“(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

“(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.”

**SEC. 1523. INTERMODAL PASSENGER FACILITIES.**

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

**§ 5571. Policy and purposes**

“(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

“(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America’s passenger transportation modes through—

“(1) ensuring intercity public transportation access to intermodal passenger facilities;

“(2) encouraging the development of an integrated system of public transportation information; and

“(3) providing intercity bus intermodal passenger facility grants.

**§ 5572. Definitions**

“In this subchapter—

“(1) ‘capital project’ means a project for—

“(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

“(B) establishing or enhancing coordination between intercity bus service and trans-

portation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

“(2) ‘commuter service’ means service designed primarily to provide daily work trips within the local commuting area.

“(3) ‘intercity bus service’ means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

“(4) ‘intermodal passenger facility’ means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

“(5) ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least one State or political subdivision of a State;

“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of the State.

“(6) ‘owner or operator of a public transportation facility’ means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

“(7) ‘recipient’ means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

“(8) ‘Secretary’ means the Secretary of Transportation.

“(9) ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(10) ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

**“§ 5573. Assurance of access to intermodal passenger facilities**

“Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

**“§ 5574. Intercity bus intermodal passenger facility grants**

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

“(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

“(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

“(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

**“§ 5575. Funding**

“(a) HIGHWAY ACCOUNT.—

“(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter \$8,930,818 for each of fiscal years 2005 through 2009.

“(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

“(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. Policy and Purposes.

“5572. Definitions.

“5573. Assurance of access to intermodal facilities.

“5574. Intercity bus intermodal facility grants.

“5575. Funding.”

**Subtitle F—Environment**

**SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.**

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

“(Q) Environmental restoration and pollution abatement in accordance with section 165.

“(R) Control of invasive plant species and establishment of native species in accordance with section 166.”

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

“(14) Environmental restoration and pollution abatement in accordance with section 165.

“(15) Control of invasive plant species and establishment of native species in accordance with section 166.”

(b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**“§ 165. Eligibility for environmental restoration and pollution abatement**

“(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

“(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds

under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

**“§ 166. Control of invasive plant species and establishment of native species**

“(a) DEFINITIONS.—In this section:

“(1) INVASIVE PLANT SPECIES.—The term ‘invasive plant species’ means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

“(2) NATIVE PLANT SPECIES.—The term ‘native plant species’ means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

“(b) CONTROL OF SPECIES.—

“(1) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

“(A) participation in the control of invasive plant species; and

“(B) the establishment of native species; if such efforts are related to transportation projects funded under this title.

“(2) INCLUDED ACTIVITIES.—The participation and establishment under paragraph (1) may include—

“(A) participation in statewide inventories of invasive plant species and desirable plant species;

“(B) regional native plant habitat conservation and mitigation;

“(C) native revegetation;

“(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

“(E) training.

“(3) CONTRIBUTIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

“(B) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.”.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

“165. Eligibility for environmental restoration and pollution abatement.

“166. Control of invasive plant species and establishment of native species.”.

**SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.**

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking “the roads as” and all that follows and inserting “the roads as—

“(A) National Scenic Byways;

“(B) All-American Roads; or

“(C) America’s Byways.”;

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking “designated as” and all that follows and inserting “designated as—

“(i) National Scenic Byways;

“(ii) All-American Roads; or

“(iii) America’s Byways; and”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “Byway or All-American Road” and inserting “Byway, All-American Road, or 1 of America’s Byways”; and

(ii) in subparagraph (B), by striking “designation as a” and all that follows and inserting “designation as—

“(i) a National Scenic Byway;

“(ii) an All-American Road; or

“(iii) 1 of America’s Byways; and”;

(3) in subsection (c)(4), by striking “passing lane.”.

(b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

“(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

“(1) IN GENERAL.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America’s Byways.

“(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

“(3) FUNDS.—The Secretary may use not more than \$1,786,164 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

“(4) PRIORITY.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion.”; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking “80 percent” and inserting “the share applicable under section 120, as adjusted under subsection (d) of that section”.

**SEC. 1603. RECREATIONAL TRAILS PROGRAM.**

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking “Whenever” and inserting the following:

“(A) IN GENERAL.—In any case in which”;

(2) by striking “research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee” and inserting “research, technical assistance, and training under the recreational trails program”; and

(3) by striking “The Secretary” and inserting the following:

“(B) CONTRACTS AND AGREEMENTS.—The Secretary”.

(b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

“(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

“(A) maintenance and restoration of recreational trails;

“(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

“(C) purchase and lease of recreational trail construction and maintenance equipment;

“(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

“(i) permissible under other law;

“(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

“(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); and

“(II) in effect;

“(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

“(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

“(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

“(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

“(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

“(F) assessment of trail conditions for accessibility and maintenance;

“(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

“(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

“(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.”; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking “(2)(F)” and inserting “(2)(I)”; and

(ii) by adding at the end the following:

“(E) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities.”;

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting “and the Federal share of the administrative costs of a State” after “project”; and

(ii) by striking “not exceed 80 percent” and inserting “be determined in accordance with section 120”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “80 percent of” and inserting “the amount determined in accordance with section 120 for”;

(ii) in subparagraph (B), by inserting “sponsoring the project” after “Federal agency”;

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

“(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal

matching share for other Federal program funds that are—

“(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

“(B) expended on a project that is eligible for assistance under this section.”; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking “80 percent” and inserting “the Federal share as determined in accordance with section 120”; and

(3) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

“(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f).”; and

(B) by striking paragraph (2) and inserting the following:

“(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section—

“(A) is intended to enhance recreational opportunity;

“(B) is not considered to be a highway project; and

“(C) is not subject to—

“(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

“(ii) section 303 of title 49.”.

**SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.**

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

“(5) EXEMPTION OF INTERSTATE SYSTEM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

“(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.”.

**SEC. 1605. STANDARDS.**

(a) IN GENERAL.—Section 109(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(3) consider the preservation, historic, scenic, natural environmental, and community values.”.

(b) CONTEXT SENSITIVE DESIGN.—Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

“(p) CONTEXT SENSITIVE DESIGN.—

“(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

“(A) allow for the preservation of environmental, scenic, or historic values;

“(B) ensure the safe use of the facility;

“(C) provide for consideration of the context of the locality;

“(D) encourage access for other modes of transportation; and

“(E) comply with subsection (a).

“(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.”.

**SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.**

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) RESPONSIBLE AGENCY.—The term ‘responsible agency’ means—

“(i) a State transportation department;

“(ii) a local agency in a State that is responsible for transportation matters; and

“(iii) a public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility.

“(B) SERIOUSLY DEGRADED.—The term ‘seriously degraded’, with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

“(2) REQUIREMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

“(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—

“(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

“(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

“(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

“(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—

“(i) shall not be considered to be a single occupant vehicle; and

“(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

“(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

“(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

“(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

“(i) DEFINITION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—In this subparagraph, the term ‘low emission and energy-efficient vehicle’ means a vehicle that has been certified by the Administrator of the Environmental Protection Agency—

“(I)(aa) to have a 45-mile per gallon or greater fuel economy highway rating; or

“(bb) to qualify as an alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211); and

“(II) as meeting Tier II emission level established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.

“(ii) EXEMPTION FOR LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not

meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

“(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

“(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

“(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

“(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

“(C) TOLLING OF VEHICLES.—

“(i) IN GENERAL.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

“(ii) APPLICABLE AUTHORITY.—In imposing a toll under clause (i), a responsible agency shall—

“(I) be subject to section 129;

“(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

“(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

“(IV) continuously monitor, evaluate, and report on performance of the system;

“(V) establish such policies and procedures as are necessary—

“(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

“(bb) to enforce violations; and

“(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

“(D) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

“(i) DEFINITION OF DESIGNATED PUBLIC TRANSPORTATION VEHICLE.—In this subparagraph, the term ‘designated public transportation vehicle’ means a vehicle that—

“(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

“(II)(aa) is owned or operated by a public entity; or

“(bb) is operated under a contract with a public entity.

“(ii) USE OF HIGH OCCUPANCY VEHICLE LANES.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

“(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

“(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

“(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are

necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

“(E) HOV LANE MANAGEMENT, OPERATION, AND MONITORING.—

“(i) IN GENERAL.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

“(ii) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

“(I) individual high occupancy vehicle lanes; and

“(II) the entire high occupancy vehicle lane system.

“(iii) OPERATION OF HOV LANE OR SYSTEM.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

“(I) individual high occupancy vehicle lanes; and

“(II) the entire high occupancy vehicle lane system.”

#### SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting “pedestrian and” after “safe”;

(2) in subsection (e), by striking “bicycles” each place it appears and inserting “pedestrians or bicyclists”;

(3) by striking subsection (f) and inserting the following:

“(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).”;

(4) by redesignating subsection (j) as subsection (k);

(5) by inserting after subsection (i) the following:

“(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

“(1) IN GENERAL.—The Secretary shall select and make grants to a national, non-profit organization engaged in promoting bicycle and pedestrian safety—

“(A) to operate a national bicycle and pedestrian clearinghouse;

“(B) to develop information and educational programs regarding walking and bicycling; and

“(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

“(2) FUNDING.—The Secretary may use funds set aside under section 104(n) to carry out this subsection.

“(3) APPLICABILITY OF TITLE 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended.”; and

(6) in subsection (k) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

“(4) SHARED USE PATH.—The term ‘shared use path’ means a multiuse trail or other path that is—

“(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

“(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).”

(b) RESERVATION OF FUNDS.—Section 104 of title 23, United States Code (as amended by section 1522), is amended by adding at the end the following:

“(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2005 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside \$446,541 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.”

#### SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

“(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—

“(1) IN GENERAL.—Notwithstanding subsection (a), a State may—

“(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not—

“(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

“(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

“(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

“(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

“(A) to reduce idling of a truck while parked in the rest or recreation area; and

“(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.”

#### SEC. 1609. TOLL PROGRAMS.

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking “The Secretary” and inserting “Notwithstanding section 301, the Secretary”; and

(ii) by striking “that could not otherwise be adequately maintained or functionally improved without the collection of tolls”;

(B) in paragraph (2), by inserting after the first sentence the following: “One such facility shall be located in Virginia.”;

(C) in paragraph (3), by striking subparagraph (C) and inserting the following:

“(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most effi-

cient, economical, or expeditious way to advance the project.”; and

(D) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

“(A) the State’s analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project.”;

(ii) by striking subparagraph (B) and inserting the following:

“(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment.”;

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking “of title 23, United States Code” each place it appears.

(b) FAST AND SENSIBLE TOLL (FAST) LANES PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

“(e) FAST AND SENSIBLE TOLL (FAST) LANES PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) ELIGIBLE TOLL FACILITY.—The term ‘eligible toll facility’ includes—

“(i) a facility in existence on the date of enactment of this subsection that collects tolls;

“(ii) a facility in existence on the date of enactment of this subsection that serves high occupancy vehicles;

“(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds); and

“(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

“(B) NONATTAINMENT AREA.—The term ‘nonattainment area’ has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

“(2) ESTABLISHMENT.—Notwithstanding sections 129 and 301, the Secretary shall permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

“(A) to manage high levels of congestion;

“(B) to reduce emissions in a nonattainment area or maintenance area; or

“(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

“(3) LIMITATION ON USE OF REVENUES.—

“(A) USE.—

“(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

“(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

“(II) a reasonable return on investment of any private financing;

“(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

“(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

“(B) REQUIREMENTS.—

“(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

“(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

“(iii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

“(C) AGREEMENT.—

“(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

“(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

“(iii) DEBT.—

“(I) IN GENERAL.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

“(II) NOTICE.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

“(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

“(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

“(A) a description of the congestion or air quality problems sought to be addressed under the program;

“(B) a description of—

“(i) the goals sought to be achieved under the program; and

“(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

“(C) such other information as the Secretary may require.

“(5) AUTOMATION.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

“(6) INTEROPERABILITY.—

“(A) RULE.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

“(ii) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

“(I) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

“(II) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

“(III) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

“(B) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

“(7) REPORTING.—

“(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

“(i) develop and publish performance goals for each FAST lane project;

“(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

“(I) effects on travel, traffic, and air quality;

“(II) distribution of benefits and burdens;

“(III) use of alternative transportation modes; and

“(IV) use of revenues to meet transportation or impact mitigation needs.

“(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(i) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

“(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

“(8) FUNDING.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection \$9,823,899 for each of fiscal years 2005 through 2009.

“(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

“(C) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be

determined in accordance with this subsection.

“(D) PROGRAM PROMOTION.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

“(i) to make grants to promote the purposes of the program under this subsection;

“(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

“(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

“(E) EFFECT ON OTHER APPORTIONMENTS AND ALLOCATIONS.—Revenues collected from tolls established under this subsection shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

“(9) COMPLIANCE.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

“(10) VOLUNTARY USE.—Nothing in this subsection requires any highway user to use a FAST lane.

“(11) ENVIRONMENTAL REQUIREMENTS.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.”

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) IN GENERAL.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

“(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Administrator shall—

“(1) conduct a field study of the ability of the PM<sub>2.5</sub> Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

“(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

“(3) develop a method of measuring the composition of coarse particles; and

“(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

“(A) the Committee on Commerce of the House of Representatives; and

“(B) the Committee on Environment and Public Works of the Senate.”

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking “ozone or carbon monoxide” and inserting “ozone, carbon monoxide, or fine particulate matter (PM<sub>2.5</sub>)”;

(B) by striking clause (i) and inserting the following:

“(i) 1.0, if at the time of apportionment, the area is a maintenance area.”;

(C) in clause (vi), by striking “or” after the semicolon; and

(D) in clause (vii)—

(i) by striking “area as described in section 149(b) for ozone,” and inserting “area for ozone (as described in section 149(b) or for PM-2.5”;

(ii) by striking the period at the end and inserting a semicolon;

(2) by adding at the end the following:

“(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

“(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM-2.5 standard.”;

(3) by striking subparagraph (C) and inserting the following:

“(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.”;

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

“(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM-2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.”.

#### SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking “or” at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

“(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.”.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking “for any project eligible under the surface transportation program under section 133.” and inserting the following: “for any project in the State that—

“(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.”; and

(2) in paragraph (2), by striking “for any project in the State eligible under section 133.” and inserting the following: “for any project in the State that—

“(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.”.

(c) RESPONSIBILITY OF STATES.—

(1) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2) EMISSION REDUCTION STRATEGIES.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

#### SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

“(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.”.

#### SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

“(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

“(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

“(B) ensure the effective implementation of the program.

“(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

“(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the

Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.”.

#### SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking “periodically, according to a schedule that the Secretary determines to be appropriate,” and inserting “every 4 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d))),”.

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking “2 years” and inserting “4 years”; and

(B) in paragraph (2)(A), by striking “3-year” and inserting “4-year”.

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after “program” the following: “(which program shall cover a period of 4 years and be updated every 4 years)”.

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking “(2) Any transportation plan” and inserting the following:

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan”;

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking “Any project” and inserting “any transportation project”; and

(ii) by striking the period at the end and inserting “; and”;

(D) by adding at the end the following:

“(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

“(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003);

“(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

“(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.”;

(2) in paragraph (4)(B)(ii), by striking “but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and” and inserting “but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

“(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

“(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and”;

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models.”; and

(4) by adding at the end the following:

“(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

“(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

“(i) The first 10-year period of any such transportation plan.

“(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

“(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

“(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

“(8) DEFINITIONS.—In this subsection:

“(A) REGIONALLY SIGNIFICANT PROJECT.—

“(i) IN GENERAL.—The term ‘regionally significant project’ means a transportation project that is on a facility that serves a regional transportation need, including—

“(I) access to and from the area outside of the region;

“(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

“(III) most transportation terminals.

“(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term ‘regionally significant project’ includes, at a minimum—

“(I) all principal arterial highways; and

“(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

“(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered ‘regionally significant projects’.

“(iv) EXCLUSIONS.—The term ‘regionally significant project’ does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

“(B) SIGNIFICANT REVISION.—The term ‘significant revision’ means—

“(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

“(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

“(C) TRANSPORTATION PROJECT.—The term ‘transportation project’ includes only a project that is—

“(i) a regionally significant project; or

“(ii) a project that makes a significant revision to an existing project.”.

**SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.**

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

“(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

“(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, in accordance with clauses (i) and (ii) and as selected through the consultation process required under paragraph (4)(D)(i), with—

“(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

“(ii) other such tests as the Administrator shall determine to ensure that—

“(I) the transportation plan or program—

“(aa) is consistent with the most recent estimates of mobile source emissions;

“(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

“(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

“(II) the transportation project—

“(aa) comes from a conforming transportation plan and program described in this subparagraph; and

“(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

“(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual transportation project taken as a whole during the environmental review phase of transportation project development.”.

**SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.**

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

“(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

“(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

“(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

“(ii) the substitute control measures are implemented—

“(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

“(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

“(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

“(iv) the substitute and additional control measures were developed through a collaborative process that included—

“(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

“(II) consultation with the Administrator; and

“(III) reasonable public notice and opportunity for comment; and

“(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

“(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

“(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

“(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

“(i) a new conformity determination for the transportation plan; or

“(ii) a revision of the implementation plan.

“(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

“(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.”.

**SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.**

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—



(1) by striking the section heading and all that follows through “after notice and opportunity for public hearing” and inserting the following:

**“SEC. 319. AIR QUALITY MONITORING.**

“(a) IN GENERAL.—After notice and opportunity for public hearing”; and

(2) by adding at the end the following:

“(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

“(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

“(A) IN GENERAL.—The term ‘exceptional event’ means an event that—

“(i) affects air quality;

“(ii) is not reasonably controllable or preventable;

“(iii) is—

“(I) a natural event; or

“(II) an event caused by human activity that is unlikely to recur at a particular location; and

“(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

“(B) EXCLUSIONS.—The term ‘exceptional event’ does not include—

“(i) stagnation of air masses or meteorological inversions;

“(ii) a meteorological event involving high temperatures or lack of precipitation; or

“(iii) air pollution relating to source non-compliance.

“(2) REGULATIONS.—

“(A) PROPOSED REGULATIONS.—Not later than March 1, 2005, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

“(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling of air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

“(3) PRINCIPLES AND REQUIREMENTS.—

“(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

“(i) the principle that protection of public health is the highest priority;

“(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

“(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

“(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

“(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

“(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

“(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

“(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the

exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

“(iii) there is a public process for determining whether an event is exceptional; and

“(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

“(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

“(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

“(B) Areas affected by PM-10 natural events, May 30, 1996.

“(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.”.

**SEC. 1619. CONFORMING AMENDMENTS.**

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking “(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate” and inserting the following:

“(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

“(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,”;

(3) in subparagraph (A)—

(A) in the second sentence, by striking “No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate” and inserting the following:

“(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,”; and

(B) in the third sentence, by striking “A suit” and inserting the following:

“(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action”; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

“(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator’s criteria and procedures for consultation required by subparagraph (D)(i).”.

**SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.**

(a) HIGHWAY STORMWATER MITIGATION PROJECTS.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

“(5) HIGHWAY STORMWATER DISCHARGE MITIGATION PROJECTS.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.”.

(b) HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.—Subchapter I of chapter 1 of title 23, United States Code (as amended

by section 1601(a)), is amended by adding at the end the following:

**“§ 167. Highway stormwater discharge mitigation program**

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) ELIGIBLE MITIGATION PROJECT.—The term ‘eligible mitigation project’ means a practice or technique that—

“(A) improves stormwater discharge water quality;

“(B) attains preconstruction hydrology;

“(C) promotes infiltration of stormwater into groundwater;

“(D) recharges groundwater;

“(E) minimizes stream bank erosion;

“(F) promotes natural filters;

“(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

“(H) reduces flooding caused by highway stormwater discharge.

“(3) FEDERAL-AID HIGHWAY AND ASSOCIATED FACILITY.—The term ‘Federal-aid highway and associated facility’ means—

“(A) a Federal-aid highway; or

“(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

“(4) HIGHWAY STORMWATER DISCHARGE.—The term ‘highway stormwater discharge’ means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

“(5) HIGHWAY STORMWATER DISCHARGE MITIGATION.—The term ‘highway stormwater discharge mitigation’ means—

“(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

“(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

“(6) PROGRAM.—The term ‘program’ means the highway stormwater discharge mitigation program established under subsection (b).

“(b) ESTABLISHMENT.—The Secretary shall establish a highway stormwater discharge mitigation program—

“(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

“(2) to enhance groundwater recharge.

“(c) PRIORITY OF PROJECTS.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

“(d) GUIDANCE.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

“(2) REQUIREMENTS FOR GUIDANCE.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.”.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b)), is amended by inserting after the item relating to section 166 the following:

“167. Highway stormwater discharge mitigation program.”.

**SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.**

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term “eligible person” means an agricultural producer that has gross agricultural commodity sales that do not exceed \$446,541.

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports a fertilizer, pesticide, propane, gasoline, or diesel fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation).

**SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.**

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108-199)) is repealed.

**Subtitle G—Operations**

**SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.**

(a) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

“(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

“(17) RUSH HOUR CONGESTION RELIEF.—

“(A) IN GENERAL.—Subject to subparagraph (B), a State may spend the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

“(B) USE OF FUNDS.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

“(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

“(ii) to purchase or lease telecommunications equipment for first responders;

“(iii) to purchase or lease towing and recovery services;

“(iv) to pay contractors for towing and recovery;

“(v) to rent vehicle storage areas adjacent to roadways;

“(vi) to fund service patrols, equipment, and operations;

“(vii) to purchase incident detection equipment;

“(viii) to carry out training.”.

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of title 23, United States Code, is amended by inserting “improve transportation systems management and operations,” after “intersections.”.

**(c) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—**

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

**“§ 168. Transportation systems management and operations**

“(a) IN GENERAL.—The Secretary shall carry out a transportation systems management and operations program to—

“(1) ensure efficient and effective management and operation of transportation sys-

tems through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

“(A) managers and operators of major modes of transportation;

“(B) public safety officials; and

“(C) the general public; and

“(2) manage and operate transportation systems in a coordinated manner to preserve the capacity and maximize the performance of transportation facilities for travelers and carriers.

“(b) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

“(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

“(B) encourage States to—

“(i) establish a system of basic real-time monitoring for the surface transportation system; and

“(ii) provide the means to share the data gathered under clause (i) among—

“(I) highway, transit, and public safety agencies;

“(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

“(III) private-sector entities; and

“(IV) the general public.

“(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

“(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

“(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

“(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

“(i) emergency evacuation and response;

“(ii) traffic incident management;

“(iii) technology deployment; and

“(iv) traveler information systems delivery.

“(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

“(d) GUIDANCE; REGULATIONS.—

“(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

“(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

“(B) system hardware;

“(C) software; and

“(D) software integration services.

“(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

“(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

“(A) traffic incident management;

“(B) technology deployment;

“(C) emergency management and response;

“(D) traveler information; and

“(E) congestion relief.”.

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

“168. Transportation systems management and operations.”.

**SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

**“§ 169. Real-time system management information program**

“(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

“(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

“(2)(A) identify long-range real-time highway and transit monitoring needs; and

“(B) develop plans and strategies for meeting those needs;

“(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

“(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

“(A) improve the security of the surface transportation system;

“(B) address congestion problems;

“(C) support improved response to weather events; and

“(D) facilitate the distribution of national and regional traveler information.

“(b) DATA EXCHANGE FORMATS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

“(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

“(1) monitoring an incident;

“(2) providing accurate traveler information on the incident; and

“(3) responding to the incident as appropriate.

“(d) REGIONAL ITS ARCHITECTURE.—

“(1) IN GENERAL.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

“(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

“(B) the systems needed to meet those needs.

“(2) DATA EXCHANGE FORMATS.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

“(A) exchanged between jurisdictions; and

“(B) shared with the traveling public.

“(e) ELIGIBLE FUNDING.—Subject to project approval by the Secretary, a State may—

“(1) use funds available to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

“(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

“169. Real-time system management information program.”.

**SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.**

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking “title 40” and all that follows through the period and inserting “title 40.”;

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

**SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.**

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended by adding at the end the following: “No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.”.

**SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.**

(a) FUNDING.—Section 134(d)(3)(C)(i) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.”.

(b) SPECIAL DESIGNATION.—Section 134(i)(1) of title 23, United States Code, is amended by adding at the end the following:

“(C) SPECIAL DESIGNATION.—

“(i) IN GENERAL.—The urbanized areas of Oklahoma City, Oklahoma, and Norman, Oklahoma, shall be designated as a single transportation management area.

“(ii) ALLOCATION.—The allocation of funds to the Oklahoma City-Norman Transportation Management Area designated under clause (i) shall be based on the aggregate population of the 2 urbanized areas referred to in that clause, as determined by the Bureau of the Census.”.

**Subtitle H—Federal-Aid Stewardship**

**SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.**

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking “12” and inserting “20”; and

(2) in clause (iii)—

(A) in subclause (I), by striking “in the agreement between the Secretary and the State or States”; and

(B) by adding at the end the following:

“(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 20-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.”.

**SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

“(e) VALUE ENGINEERING ANALYSIS.—

“(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

“(A) IN GENERAL.—In this subsection, the term ‘value engineering analysis’ means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplinary team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

“(i) providing the needed functions safely, reliably, and at the lowest overall cost;

“(ii) improving the value and quality of the project; and

“(iii) reducing the time to complete the project.

“(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

“(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

“(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

“(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

“(A) each project on the Federal-Aid System with an estimated total cost of \$25,000,000 or more;

“(B) a bridge project with an estimated total cost of \$20,000,000 or more; and

“(C) any other project the Secretary determines to be appropriate.

“(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

“(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

“(A) include bridge substructure requirements based on construction material; and

“(B) be evaluated—

“(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

“(ii) using an analysis of life-cycle costs and duration of project construction.”; and

(2) by striking subsections (g) and (h) and inserting the following:

“(g) OVERSIGHT PROGRAM.—

“(1) PROGRAM.—

“(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the

effective and efficient use of funds made available under this title.

“(B) MINIMUM REQUIREMENTS.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

“(2) FINANCIAL INTEGRITY.—

“(A) FINANCIAL MANAGEMENT SYSTEMS.—

“(i) IN GENERAL.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

“(ii) REVIEW AREAS.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

“(B) PROJECT COSTS.—The Secretary shall—

“(i) develop minimum standards for estimating project costs; and

“(ii) periodically evaluate practices of the States for—

“(I) estimating project costs;

“(II) awarding contracts; and

“(III) reducing project costs.

“(C) RESPONSIBILITY OF THE STATES.—

“(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

“(I) sufficient accounting controls to properly manage the Federal funds; and

“(II) adequate project delivery systems for projects approved under this section.

“(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

“(3) PROJECT DELIVERY.—The Secretary shall—

“(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

“(B) employ risk assessment procedures to identify areas to be reviewed.

“(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

“(A) specifically provided for under this title or other Federal law; or

“(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

“(h) MAJOR PROJECTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of \$1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

“(A) a project management plan; and

“(B) an annual financial plan.

“(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

“(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

“(B) the role of the agency leadership and management team in the delivery of the project.

“(3) FINANCIAL PLAN.—A financial plan shall—

“(A) be based on detailed estimates of the cost to complete the project; and

“(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

“(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives \$100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking “highways or portions of highways located on a Federal-aid system” and inserting “Federal-aid highway or a portion of a Federal-aid highway”; and

(B) by striking the second sentence and inserting “The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.”.

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY; SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

“**§ 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries**

“(a) MANDATORY ENFORCEMENT POLICY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

“(A) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

“(B) subject to approval by the Attorney General—

“(i) except as provided in paragraph (2), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

“(ii) may exclude nonaffiliated subsidiaries of a debarred business entity.

“(2) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under paragraph (1) would be contrary to the national security of the United States, the Secretary—

“(A) may waive the debarment or suspension; and

“(B) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.

“(b) SHARING OF MONETARY RECOVERIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law—

“(A) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

“(B) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

“(2) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

“(A) determined by the Attorney General, in consultation with the Secretary; and

“(B) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

“(3) FRAUDULENT ACTIVITY.—Paragraph (1) shall not apply in any case in which a State

or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

“307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.”.

**SEC. 1803. DESIGN-BUILD CONTRACTING.**

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

“(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.”.

**SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.**

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking “(a) CONGESTION” and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

“(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

“(1) without the use of Federal funds; and

“(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

“(A) with the aid of Federal funds previously apportioned or allocated to the State; or

“(B) with obligation authority previously allocated to the State.

“(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.”.

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

“(d) OBLIGATION AND RELEASE OF FUNDS.—

“(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

“(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

“(A) credited to the same class of funds previously apportioned or allocated to the State; and

“(B) immediately available for obligation.

“(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.”.

**SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.**

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking “\$50,000,000” and all that follows through “2003” and inserting

“\$89,308,176 for each of fiscal years 2005 through 2009”; and

(2) by striking “Transportation Equity Act for the 21st Century” and inserting “Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005”.

**SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.**

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking “Federal-aid highway”; and

(B) by striking “section 104” and inserting “this title or chapter 53 of title 49”.

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking “section 104” and inserting “this title or chapter 53 of title 49”.

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

“(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

“(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

“(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

“(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2).”.

(2) in the last sentence, by striking “Any sums” and inserting the following:

“(c) RECOVERY AND CREDITING OF FUNDS.—Any sums”.

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking “(a) On October 1” and all that follows through “Such allocation” and inserting the following:

“(a) ALLOCATION BASED ON NEED.—

“(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

“(2) PLANNING.—The allocation under paragraph (1);”.

(2) by striking subsection (b) and inserting the following:

“(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

“(1) PUBLIC LANDS HIGHWAYS.—

“(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33½ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

“(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

“(2) FOREST HIGHWAYS.—

“(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66½

percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

“(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

“(i) renewable resource and land use planning; and

“(ii) assessments of the impact of that planning on transportation facilities.”;

(3) in subsection (c)—

(A) by striking “(c) On” and inserting the following:

“(C) PARK ROADS AND PARKWAYS.—

“(1) IN GENERAL.—On”; and

(B) by adding at the end the following:

“(2) PRIORITY.—

“(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term “qualifying national park” means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

“(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

“(i) are located in, or provide access to, a qualifying National Park; and

“(ii) were initially constructed before 1940.

“(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

“(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

“(ii) are located in more than 1 State;”;

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking “1999” and inserting “2005”; and

(ii) by striking “1999” and inserting “2005”;

(B) in paragraph (2)—

(i) in the paragraph heading, by striking “2000” and inserting “2005”;

(ii) in subparagraphs (A), (B), and (D), by striking “2000” each place it appears and inserting “2005”;

(iii) in subparagraph (B), by striking “1999” each place it appears and inserting “2005”; and

(iv) by adding at the end the following:

“(E) TRANSFERRED FUNDS.—

“(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula applicable for each fiscal year.

“(ii) FORMULA.—If the Secretary of the Interior has not promulgated final regulations for the distribution of funds under clause (i) for a fiscal year by the date on which the funds for the fiscal year are required to be distributed under that clause, the Secretary of the Interior shall distribute the funds under clause (i) in accordance with the applicable funding formula for the preceding year.

“(iii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.”;

(C) in paragraph (3)—

(i) in subparagraph (A), by striking “under this title” and inserting “under this chapter and section 125(e)”; and

(ii) by adding at the end the following:

“(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

“(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

“(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

“(iii) SELECTION OF PARTICIPATING TRIBES.—

“(I) PARTICIPANTS.—

“(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

“(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

“(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

“(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

“(aa) has successfully completed the planning phase described in subclause (IV);

“(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

“(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

“(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe’s self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

“(IV) PLANNING PHASE.—

“(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

“(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

“(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.”; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking “(B) RESERVATION.—Of the amounts” and all that follows through “to replace,” and inserting the following:

“(B) FUNDING.—

“(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$13,396,226 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace.”; and

(II) by adding at the end the following:

“(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.”; and

(ii) by striking subparagraph (D) and inserting the following:

“(D) APPROVAL REQUIREMENT.—

“(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

“(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates.”; and

(5) by adding at the end the following:

“(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

“(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

“(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

“(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

“(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

“(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.”

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting “refuge roads, recreation roads,” after “parkways,”;

(2) by striking subsection (b) and inserting the following:

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

“(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

“(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

“(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

“(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

“(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b).”; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking “(2), (5),” and inserting “(2), (3), (5),”; and

(ii) by striking “and” after the semicolon; (B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

“(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

“(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not ex-

ceed 5 percent of available funds for each fiscal year).”

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: “Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of \$250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.”

(f) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

“(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

“(1) 12 percent to the Bureau of Reclamation.

“(2) 18 percent to the Bureau of Indian Affairs.

“(3) 17 percent to the Bureau of Land Management.

“(4) 17 percent to the Forest Service.

“(5) 7 percent to the United States Fish and Wildlife Service.

“(6) 17 percent to the National Park Service.

“(7) 12 percent to the Corps of Engineers.”

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting “safety projects or activities,” after “refuge roads,” each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

“(1) SAFETY ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

“(A) transportation safety improvement activities;

“(B) activities to eliminate high-accident locations;

“(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

“(D) collection of safety information;

“(E) transportation planning projects or activities;

“(F) bridge inspection;

“(G) development and operation of safety management systems;

“(H) highway safety education programs; and

“(I) other eligible safety projects and activities authorized under chapter 4.

“(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

“(A) a State;

“(B) a political subdivision of a State; or

“(C) an Indian tribe.

“(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.)

shall not apply to funds made available to the Bureau of Reclamation under this subsection.”

(g) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting “recreation roads,” after “public lands highways,”.

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (f)(1)), is amended by adding at the end the following:

“(h) RECREATION ROADS.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

“(A) 8 percent to the Bureau of Reclamation.

“(B) 9 percent to the Corps of Engineers.

“(C) 13 percent to the Bureau of Land Management.

“(D) 70 percent to the Forest Service.

“(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.”

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting “recreation roads,” after “Indian reservation roads,”; and

(B) in the fourth sentence, by inserting “, recreation roads,” after “Indian roads”.

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

“(m) RECREATION ROADS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

“(A) maintenance or improvements of existing recreation roads;

“(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

“(i) the Department of Agriculture; or

“(ii) the Department of the Interior;

“(C) transportation planning and administrative activities associated with those maintenance and improvements; and

“(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

“(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

“(A) a State;

“(B) a political subdivision of a State; or

“(C) an Indian tribe.

“(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

“(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency,

shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

“(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

“(B) as of the date on which the funds are to be expended, there are—

“(i) no significant changes to the proposal bearing on environmental concerns; and

“(ii) no significant new information.

“(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.”.

(h) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking “public lands highways,” each place it appears and inserting “public lands highways, recreation roads,”.

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking “forest development roads” each place it appears and inserting “National Forest System roads”.

(3) Section 202(e) of title 23, United States Code, is amended by striking “Refuge System,” and inserting “Refuge System and the various national fish hatcheries,”.

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking “public lands highways,” and inserting “public lands highways, recreation roads, forest highways,”; and

(B) in subsection (i), by striking “public lands highways” each place it appears and inserting “public lands highways, recreation roads, and forest highways”.

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

**“§ 205. National Forest System roads and trails”;**

and

(B) in subsections (a) and (d), by striking “forest development roads” each place it appears and inserting “National Forest System roads”.

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

“205. National Forest System roads and trails.”.

(7) Section 217(c) of title 23, United States Code, is amended by inserting “refuge roads,” after “Indian reservation roads,”.

#### SEC. 1807. HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

#### **“§ 144. Highway bridge program**

“(a) CONGRESSIONAL STATEMENT.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.”;

(2) by striking subsection (d) and inserting the following:

“(d) PARTICIPATION IN PROGRAM.—

“(1) IN GENERAL.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

“(A) replacing the bridge with a comparable bridge; or

“(B) rehabilitating the bridge.

“(2) SPECIFIC KINDS OF REHABILITATION.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

“(3) ELIGIBILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

“(B) PREVENTATIVE MAINTENANCE.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.”;

(3) in subsection (e)—

(A) in the third sentence, by striking “square footage” and inserting “area”;

(B) in the fourth sentence—

(i) by striking “by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,”; and

(ii) by striking “1997” and inserting “2003”;

(C) in the seventh sentence, by striking “the Federal-aid primary system” and inserting “Federal-aid highways”;

(4) by striking subsections (f) and (g) and inserting the following:

“(f) SET ASIDES.—

“(1) DISCRETIONARY BRIDGE PROGRAM.—

“(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2005 through 2009, all but \$133,962,264 shall be apportioned as provided in subsection (e).

“(B) AVAILABILITY.—The \$133,962,264 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed \$22,327,044 of that amount shall be available only for projects for the seismic retrofit of bridges.

“(C) SET ASIDES.—For fiscal year 2005, the Secretary shall provide—

“(i) \$44,654,088 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and

“(ii) \$44,654,088 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

“(2) OFF-SYSTEM BRIDGES.—

“(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabili-

tate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

“(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.”;

(5) in subsection (i)—

(A) in paragraph (3), by striking “and”;

(B) in paragraph (4), by striking the period at the end and inserting “; and”;

(C) by striking “Such reports” and all that follows through “to Congress.”; and

(D) by adding at the end the following:

“(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).”;

(6) in the first sentence of subsection (n), by striking “all standards” and inserting “all general engineering standards”;

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking “title (including this section)” and inserting “section”; and

(ii) by inserting “200 percent of” after “shall not exceed”; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting “200 percent of” after “not to exceed”; and

(ii) in the last sentence, by striking “title” and inserting “section”;

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

“(q) CONTINUATION OF ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

“(r) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

“144. Highway bridge program.”.

#### SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

#### **“§ 170. Appalachian development highway system**

“(a) APPORTIONMENT.—

“(1) IN GENERAL.—The Secretary shall apportion funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for fiscal years 2005 through 2009 among States based on the latest available estimate of the cost to construct highways and access

roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

“(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

“(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

“(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

“(2) the funds shall remain available until expended.”.

(b) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting “and the Appalachian development highway system program under subtitle IV of title 40” after “(other than the emergency relief program authorized by section 125”.

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

“170. Appalachian development highway system.”.

**SEC. 1809. MULTISTATE CORRIDOR PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(a)), is amended by adding at the end the following:

**“§ 171. Multistate corridor program**

“(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—

“(1) support and encourage multistate transportation planning and development; and

“(2) facilitate transportation decision-making and coordinate project delivery involving multistate corridors.

“(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

“(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.

“(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

“(1) STUDIES.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

“(2) CONSTRUCTION.—All construction funded under this program shall be consistent with section 133(b)(1).

“(e) SELECTION CRITERIA.—The Secretary shall select studies and projects to be carried out under the program based on—

“(1) the existence and significance of signed and binding multijurisdictional agreements;

“(2) endorsement of the study or project by applicable elected State and local representatives;

“(3) prospects for early completion of the study or project; or

“(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

“(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

“(1) encourage and enable States and other jurisdictions to work together to develop

plans for multimodal and multijurisdictional transportation decisionmaking; and

“(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—

“(A) increase—

“(i) mobility;

“(ii) freight productivity;

“(iii) access to marine or inland ports;

“(iv) safety and security; and

“(v) reliability; and

“(B) enhance the environment.

“(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

“(h) APPLICABILITY.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)) is amended by adding at the end the following:

“171. Multistate corridor program.”.

**SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(a)), is amended by adding at the end the following:

**“§ 172. Border planning, operations, technology, and capacity program**

“(a) DEFINITIONS.—In this section:

“(1) BORDER STATE.—The term ‘border State’ means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

“(2) PROGRAM.—The term ‘program’ means the border planning, operations, technology, and capacity program established under subsection (b).

“(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

“(c) ELIGIBLE ACTIVITIES.—

“(1) IN GENERAL.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

“(2) ELIGIBLE ACTIVITIES.—A border State may obligate funds apportioned to the border State under this section for—

“(A) highway and multimodal planning or environmental studies;

“(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

“(C) technology and information exchange activities; and

“(D) right-of-way acquisition, design, and construction, as needed—

“(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

“(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

“(iii) to increase highway capacity at or near international borders.

“(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

“(1) IN GENERAL.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

“(2) REGIONALLY SIGNIFICANT PROJECTS.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

“(e) PROGRAM PRIORITIES.—Border States shall give priority to projects that emphasize—

“(1) multimodal planning;

“(2) improvements in infrastructure; and

“(3) operational improvements that—

“(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

“(B) enhance the environment.

“(f) MANDATORY PROGRAM.—

“(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

“(2) FORMULA.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

“(A) 25 percent in the ratio that—

“(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

“(B) 25 percent in the ratio that—

“(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

“(C) 25 percent in the ratio that—

“(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

“(D) 25 percent in the ratio that—

“(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

“(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

“(3) DATA SOURCE.—

“(A) IN GENERAL.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

“(B) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

“(4) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of



1 percent of the funds made available for allocation under this paragraph for the fiscal year.

“(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

“(h) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

“(i) INFORMATION EXCHANGE.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds \$500,000 for any fiscal year.

“(j) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

“(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

“(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

“(k) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

“(l) STATE FUNDS.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

“(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

“(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

“(2) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (f).

“(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

“(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

“(ii) shall be—

“(I) administered in accordance with the procedures of the General Services Administration; but

“(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

“(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

“(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

“(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Sec-

retary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

“(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

“(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

“(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

“(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

“(ii) shall be—

“(I) administered in accordance with the procedures of the General Services Administration; but

“(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

“(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

“172. Border planning, operations, and technology program.”

#### SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

##### “§ 173. Puerto Rico highway program

“(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

“(b) APPLICABILITY OF TITLE.—

“(1) IN GENERAL.—Amounts made available by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

“(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

“(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

“(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

“(A) the aggregate of the amounts for the fiscal year; by

“(B) the ratio that—

“(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

“(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

“(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

“(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

“173. Puerto Rico highway program.”

#### SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

##### “§ 174. National historic covered bridge preservation

“(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term ‘historic covered bridge’ means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

“(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

“(1) collect and disseminate information on historic covered bridges;

“(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

“(3) conduct research on the history of historic covered bridges; and

“(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

“(c) GRANTS.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

“(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

“(A) to rehabilitate or repair a historic covered bridge; or

“(B) to preserve a historic covered bridge, including through—

“(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

“(ii) installation of a system to prevent vandalism and arson; or

“(iii) relocation of a bridge to a preservation site.

“(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

“(A) to the maximum extent practicable, the project—

“(i) is carried out in the most historically appropriate manner; and

“(ii) preserves the existing structure of the historic covered bridge; and

“(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

“(4) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

“(d) FUNDING.—There is authorized to be appropriated to carry out this section \$12,503,145 for each of fiscal years 2005 through 2009, to remain available until expended.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

“174. National historic covered bridge preservation.”

**SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

**“§ 175. Transportation and community and system preservation program**

“(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

“(b) GOALS.—The goals of the program are to—

“(1) improve the efficiency of the transportation system in the United States;

“(2) reduce the impacts of transportation on the environment;

“(3) reduce the need for costly future investments in public infrastructure;

“(4) provide efficient access to jobs, services, and centers of trade; and

“(5) examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

“(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

“(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

“(A) have instituted preservation or development plans and programs that—

“(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

“(ii)(I) are coordinated with State and local adopted preservation or development plans;

“(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

“(III) are intended to promote innovative private sector strategies.

“(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

“(i) spending policies that direct funds to high-growth areas;

“(ii) urban growth boundaries to guide metropolitan expansion;

“(iii) ‘green corridors’ programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

“(iv) other similar programs or policies as determined by the Secretary;

“(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

“(D) examine ways to encourage private sector investments that address the purposes of this section; and

“(E) propose projects for funding that address the purposes described in subsection (b)(2).

“(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

“(4) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

“(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

“(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

“(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

“(I) transit-oriented development plans;

“(II) traffic calming measures; or

“(III) other coordinated transportation and community and system preservation practices.

“(d) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$44,654,088 for each of fiscal years 2005 through 2009.

“(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”.

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

“(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

“(A) Improvement of the efficiency of the transportation system in the United States.

“(B) Reduction of the impacts of transportation on the environment.

“(C) Reduction of the need for costly future investments in public infrastructure.

“(D) Provision of efficient access to jobs, services, and centers of trade.

“(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).

“(19) Projects relating to intersections, including intersections—

“(A) that—

“(i) have disproportionately high accident rates;

“(ii) have high levels of congestion, as evidenced by—

“(I) interrupted traffic flow at the intersection; and

“(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than ‘F’ during peak travel hours; and

“(iii) are directly connected to or located on a Federal-aid highway; and

“(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.”.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

“175. Transportation and community and system preservation pilot program.”.

**SEC. 1814. PARKING PILOT PROGRAMS.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended

by section 1813(a)), is amended by adding at the end the following:

**“§ 176. Parking pilot programs**

“(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

“(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

“(2) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

“(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

“(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

“(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

“(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

“(3) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

“(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

“(i) construction of safety rest areas that include parking for commercial motor vehicles;

“(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

“(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

“(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

“(v) construction of turnouts along the National Highway System for commercial motor vehicles;

“(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

“(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

“(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

“(6) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$8,930,818 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

“(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

“(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

“(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

“(2) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

“(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

“(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

“(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

“(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

“(3) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

“(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

“(i) construction of corridor and fringe parking facilities;

“(ii) costs associated with the opening of facilities;

“(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

“(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

“(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

“(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

“(6) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$8,930,818 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

“176. Parking pilot programs.”

**SEC. 1815. INTERSTATE OASIS PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

**“§ 177. Interstate oasis program**

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

“(1) establish an Interstate oasis program; and

“(2) develop standards for designating, as an Interstate oasis, a facility that—

“(A) offers—

“(i) products and services to the public;

“(ii) 24-hour access to restrooms; and

“(iii) parking for automobiles and heavy trucks; and

“(B) meets other standards established by the Secretary.

“(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

“(1) the appearance of a facility; and

“(2) the proximity of the facility to the Interstate System.

“(c) ELIGIBILITY FOR DESIGNATION.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

“(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

“177. Interstate oasis program.”

**SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.**

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

“(n) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

“(A) Indian reservation roads; and

“(B) roads providing access to Indian reservation roads.

“(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

“(A) shall be negotiated between the State and the Indian tribe; and

“(B) shall not require the approval of the Secretary.

“(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

“(A) the Indian tribes and States that have entered into agreements under paragraph (1);

“(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

“(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).”

**SEC. 1817. NATIONAL FOREST SYSTEM ROADS.**

Section 205 of title 23, United States Code, is amended by adding at the end the following:

“(e) PASSAGES FOR AQUATIC SPECIES.—Of the amounts made available for National Forest System roads, \$13,396,226 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads

in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.”

**SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.**

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

**“§ 215. Territorial highway program**

“(a) DEFINITIONS.—In this section:

“(1) PROGRAM.—The term ‘program’ means the territorial highway program established under subsection (b).

“(2) TERRITORY.—The term ‘territory’ means the any of the following territories of the United States:

“(A) American Samoa.

“(B) The Commonwealth of the Northern Mariana Islands.

“(C) Guam.

“(D) The United States Virgin Islands.

“(b) PROGRAM.—

“(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

“(A) designated by the Governor or chief executive officer of each territory; and

“(B) approved by the Secretary.

“(2) FEDERAL SHARE.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

“(c) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

“(A) engage in highway planning;

“(B) conduct environmental evaluations;

“(C) administer right-of-way acquisition and relocation assistance programs; and

“(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

“(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

“(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

“(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

“(2) APPLICABLE PROVISIONS.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those sections, shall be identified in the agreement required by subsection (e).

“(e) AGREEMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005),

providing that the government of the territory shall—

“(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

“(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

- “(i) appropriate for each territory; and  
“(ii) approved by the Secretary;

“(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

“(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

“(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

“(A) specify the kind of technical assistance to be provided under the program;

“(B) include appropriate provisions regarding information sharing among the territories; and

“(C) delineate the oversight role and responsibilities of the territories and the Secretary.

“(3) REVIEW AND REVISION OF AGREEMENT.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

“(4) EXISTING AGREEMENTS.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005—

“(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

“(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

“(f) PERMISSIBLE USES OF FUNDS.—

“(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

“(A) Eligible surface transportation program projects described in section 133(b).

“(B) Cost-effective, preventive maintenance consistent with section 116.

“(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

“(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

“(E) Studies of the economy, safety, and convenience of highway use.

“(F) The regulation and equitable taxation of highway use.

“(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

“(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

“(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.”

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

“(P) Projects eligible for assistance under the territorial highway program under section 215.”

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking “to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands” and inserting “for the territorial highway program authorized under section 215”.

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

“215. Territorial highway program.”

**SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.**

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking “Not later than” and inserting the following:

“(1) INITIAL SOLICITATION.—Not later than”; and

(B) by adding at the end the following:

“(2) ADDITIONAL SOLICITATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.”;

(2) in subsection (e), by striking “Prior to soliciting applications, the Secretary” and inserting “The Secretary”;

(3) in subsection (h)(1)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

“(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$13,396,226 for each of fiscal years 2005 through 2009.”; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

“(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

“(I) \$357,232,704 for fiscal year 2005;

“(II) \$370,628,931 for fiscal year 2006;

“(III) \$379,559,748 for fiscal year 2007;

“(IV) \$388,490,566 for fiscal year 2008; and

“(V) \$401,886,792 for fiscal year 2009.”; and

(4) by striking subsection (i).

**SEC. 1820. DONATIONS AND CREDITS.**

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting “, or a local government from offering to donate funds, materials, or services performed by local government employees,” after “services”; and

(2) striking subsection (e).

**SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.**

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term “small business concern” has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term “small business concern” does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of \$17,420,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “socially and economically disadvantaged individuals” has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

**SEC. 1822. [RESERVED.]**

**SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.**

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

“(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.”

**SEC. 1824. THE DELTA REGIONAL AUTHORITY.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

**“§ 178. Delta Region transportation development program**

“(a) IN GENERAL.—The Secretary shall carry out a program to—

“(1) support and encourage multistate transportation planning and corridor development;

“(2) provide for transportation project development;

“(3) facilitate transportation decision-making; and

“(4) support transportation construction.

“(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

“(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

“(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive

planning processes required by section 134 and 135.

“(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

“(1) whether the project is located—

“(A) in an area that is part of the Delta Regional Authority; and

“(B) on the Federal-aid system;

“(2) endorsement of the project by the State department of transportation; and

“(3) evidence of the ability to complete the project.

“(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

“(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

“(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

“(A) increase the mobility of people and goods;

“(B) improve the safety of the transportation system with respect to catastrophic—

“(i) natural disasters; or

“(ii) disasters caused by human activity; and

“(C) contribute to the economic vitality of the area in which the project is being carried out.

“(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

“(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

“178. Delta Region transportation development program.”

**SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 1105(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop

plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

**SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.**

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking “\$1,500,000 for each of fiscal years 1998 through 2003” and inserting “\$1,607,547 for each of fiscal years 2005 through 2009”.

**Subtitle I—Technical Corrections**

**SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking “on the Federal-aid urban system” and inserting “on a Federal-aid highway”.

**SEC. 1902. CLARIFICATION OF DATE.**

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking “The Secretary” and all that follows through “of 1970” and inserting “Not later than January 30, 1971, the Secretary shall issue”.

**SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

**“§ 321. Signs identifying funding sources”.**

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

“321. Signs identifying funding sources.”

**SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.**

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

**“§ 313. Buy America”.**

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

“313. Buy America.”

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking “by this Act” the first place it appears and all that follows through “of 1978” and inserting “to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title”;

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking “this Act,” and all that follows through “Code, which” and inserting “the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that”;

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

**SEC. 1905. TECHNICAL AMENDMENTS TO NON-DISCRIMINATION SECTION.**

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking “subsection (a) of section 105 of this title” and inserting “section 135”;

(B) in the second sentence, by striking “He” and inserting “The Secretary”;

(C) in the third sentence, by striking “where he considers it necessary to assure” and inserting “if necessary to ensure”; and

(D) in the last sentence—

(i) by striking “him” and inserting “the Secretary” and

(ii) by striking “he” and inserting “the Secretary”;

(2) in subsection (b)—

(A) in the first sentence, by striking “highway construction” and inserting “surface transportation”; and

(B) in the second sentence—

(i) by striking “as he may deem necessary” and inserting “as necessary”; and

(ii) by striking “not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and”;

(3) in the second sentence of subsection (c)—

(A) by striking “subsection 104(b)(3) of this title” and inserting “section 104(b)(3)”; and

(B) by striking “he may deem”; and

(4) in the heading of subsection (d), by striking “AND CONTRACTING”.

**TITLE II—TRANSPORTATION RESEARCH**

**Subtitle A—Funding**

**SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) \$188,440,252 for fiscal year 2005;

(ii) \$192,012,579 for fiscal year 2006;

(iii) \$194,691,824 for fiscal year 2007;

(iv) \$196,477,987 for fiscal year 2008; and

(v) \$199,157,233 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2005 through 2009, the Secretary shall set aside \$17,861,635 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) \$25,006,289 for fiscal year 2005;

(B) \$25,899,371 for fiscal year 2006;

(C) \$26,792,453 for fiscal year 2007;

(D) \$27,685,535 for fiscal year 2008; and

(E) \$28,578,616 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49,

United States Code, \$25,006,289 for each of fiscal years 2005 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

- (A) \$109,849,057 for fiscal year 2005;
- (B) \$112,528,302 for fiscal year 2006;
- (C) \$115,207,547 for fiscal year 2007;
- (D) \$117,886,792 for fiscal year 2008; and
- (E) \$120,566,038 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code \$40,188,679 for each of fiscal years 2005 through 2009.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and (2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) \$24,113,208 for each of fiscal years 2005 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) \$16,075,472 for fiscal year 2005, \$15,182,390 for fiscal year 2006, \$13,396,226 for fiscal year 2007, \$10,716,981 for fiscal year 2008, and \$8,930,818 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) \$5,358,491 for each of fiscal years 2005 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title, of which \$893,082 for each fiscal year shall be used by the Secretary to carry out demonstration projects involving the use of ultra-high-performance concrete with ductility;

(D) \$5,358,491 for each of fiscal years 2005 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(E) \$5,358,491 for each of fiscal years 2005 through 2009 shall be made available to carry out research on concrete pavements;

(F) \$2,679,245 for each of fiscal years 2005 through 2009 shall be made available to carry out research on aggregates used in highway pavements;

(G) \$4,242,138 for each of fiscal years 2005 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(H) \$1,786,164 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(I) \$2,679,245 for each of fiscal years 2005 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), \$53,584,906 for each of fiscal years 2005 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) \$11,163,522 for fiscal year 2005, \$11,610,063 for fiscal year 2006, \$12,056,604 for fiscal year 2007, \$12,503,145 for fiscal year 2008, and \$12,949,686 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) \$13,396,226 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) \$2,679,245 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), \$446,541 for each of fiscal years 2005 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2005 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) \$13,396,226 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) \$16,968,553 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) \$11,610,063 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) \$17,861,635 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) \$4,465,409 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) \$2,679,245 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than \$26,792,453 for each of fiscal years 2005 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

**SEC. 2002. OBLIGATION CEILING.**

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

- (1) \$388,669,286 for fiscal year 2005;
- (2) \$395,813,942 for fiscal year 2006;
- (3) \$402,065,516 for fiscal year 2007;
- (4) \$407,424,008 for fiscal year 2008; and
- (5) \$413,675,582 for fiscal year 2009.

**SEC. 2003. NOTICE.**

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that re-

quires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

**Subtitle B—Research and Technology**

**SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

**“CHAPTER 5—RESEARCH AND TECHNOLOGY**

**“SUBCHAPTER I—SURFACE TRANSPORTATION**

“Sec.

- “501. Definitions.
- “502. Surface transportation research.
- “503. Technology application program.
- “504. Training and education.
- “505. State planning and research.
- “506. International highway transportation outreach program.
- “507. Surface transportation-environmental cooperative research program.
- “508. Surface transportation research technology deployment and strategic planning.
- “509. New strategic highway research program.
- “510. University transportation centers.
- “511. Multistate corridor operations and management.
- “512. Transportation analysis simulation system.

**“SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM**

- “521. Finding.
- “522. Goals and purposes.
- “523. Definitions.
- “524. General authorities and requirements.
- “525. National ITS Program Plan.
- “526. National ITS architecture and standards.
- “527. Commercial vehicle intelligent transportation system infrastructure program.
- “528. Research and development.
- “529. Use of funds.

**“SUBCHAPTER I—SURFACE TRANSPORTATION**

**“§ 501. Definitions**

“In this subchapter:  
 “(1) FEDERAL LABORATORY.—The term ‘Federal laboratory’ includes—  
 “(A) a Government-owned, Government-operated laboratory; and  
 “(B) a Government-owned, contractor-operated laboratory.  
 “(2) SAFETY.—The term ‘safety’ includes highway and traffic safety systems, research, and development relating to—  
 “(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;  
 “(B) accident investigations;  
 “(C) integrated, interoperable emergency communications;

“(D) emergency medical care; and  
“(E) transportation of the injured.

#### “§ 502. Surface transportation research

“(a) IN GENERAL.—

“(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

“(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

“(B) the effect of State laws on the activities described in subparagraph (A).

“(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

“(3) COOPERATION, GRANTS, AND CONTRACTS.—

“(A) IN GENERAL.—The Secretary may carry out this section—

“(i) independently;

“(ii) in cooperation with—

“(I) any other Federal agency or instrumentality; and

“(II) any Federal laboratory; or

“(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

“(I) the National Academy of Sciences;

“(II) the American Association of State Highway and Transportation Officials;

“(III) planning organizations;

“(IV) a Federal laboratory;

“(V) a State agency;

“(VI) an authority, association, institution, or organization;

“(VII) a for-profit or nonprofit corporation;

“(VIII) a foreign country; or

“(IX) any other person.

“(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable and appropriate—

“(i) on a competitive basis; and

“(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

“(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

“(5) FUNDS.—

“(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

“(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, insti-

tutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

“(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

“(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

“(A)(i) increasing to 50 years the expected life of pavements;

“(ii) increasing to 100 years the expected life of bridges; and

“(iii) significantly increasing the durability of other infrastructure;

“(B) lowering the life-cycle costs, including—

“(i) construction costs;

“(ii) maintenance costs;

“(iii) operations costs; and

“(vi) user costs.

“(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

“(3) the investigation of—

“(A) the application of current natural hazard mitigation techniques to manmade hazards; and

“(B) the continuation of hazard mitigation research combining manmade and natural hazards;

“(4) the improvement of safety—

“(A) at intersections;

“(B) with respect to accidents involving vehicles run off the road; and

“(C) on rural roads;

“(5) the reduction of work zone incursions and improvement of work zone safety;

“(6) the improvement of geometric design of roads for the purpose of safety;

“(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

“(A) the most useful types of data are being collected; and

“(B) any improvement could be made in the types of data collected and the manner

in which the data is collected, with respect to bridges in the United States;

“(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

“(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

“(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

“(i) intelligent transportation system technologies of traffic operations centers; and

“(ii) other new data collection technologies as sources of better quality performance data;

“(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

“(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

“(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

“(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

“(B) improvements in calculating life-cycle costs; and

“(C) valuation of assets;

“(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

“(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

“(A) planning;

“(B) environmental decisionmaking and project delivery; and

“(C) freight movement;

“(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

“(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

“(14) the conduct of extreme weather research, including research to—

“(A) reduce contraction and expansion damage;

“(B) reduce or repair road damage caused by freezing and thawing;

“(C) improve deicing or snow removal techniques;

“(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

“(E) improve concrete and asphalt installation in extreme weather conditions; and

“(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

“(15) the improvement of surface transportation planning;

“(16) environmental research;

“(17) transportation system management and operations; and

“(18) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

“(d) ADVANCED, HIGH-RISK RESEARCH.—

“(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed

under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

“(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

“(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

“(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

“(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

“(B) analyze the data obtained in carrying out subparagraph (A); and

“(C) prepare products to fulfill program objectives and meet future pavement technology needs.

“(3) CONCLUSION OF PROGRAM.—

“(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

“(i) an analysis of any research objectives that remain to be achieved under the program;

“(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

“(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

“(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

“(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

“(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

“(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

“(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

“(f) SEISMIC RESEARCH.—The Secretary shall—

“(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

“(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

“(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

“(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

“(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, carry out a seismic research program—

“(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

“(B) to develop and implement cost-effective methods to reduce the vulnerability; and

“(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

“(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(1) IN GENERAL.—Not later than July 31, 2005, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

“(A) estimates of the future highway and bridge needs of the United States; and

“(B) the backlog of current highway and bridge needs.

“(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

“(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

“(2) COMPONENTS OF PLAN.—The plan shall include—

“(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

“(B) a description of the manner in which those activities will be coordinated; and

“(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

“(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

“(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

“(ii) recommended upgrades of traffic management during crises;

“(iii) integrated, interoperable emergency communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

“(iv) protection of critical, security-related infrastructure; and

“(v) structural reinforcement of key facilities.

“(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) a copy of the plan developed under paragraph (1); and

“(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

“(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

“(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) \$16,075,472 for each of fiscal years 2005 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107-171.

“§ 503. Technology application program

“(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology and innovation application initiatives and partnerships program.

“(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation by the surface transportation community.

“(3) APPLICATION GOALS.—

“(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

“(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

“(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

“(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

“(A) disseminate the results of research sponsored by the Secretary; and

“(B) facilitate technology transfer.

“(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

“(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.



“(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

“(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

“(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.

“(2) GOALS.—The goals of the program shall include—

“(A) the development of new, cost-effective, and innovative materials;

“(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

“(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

“(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

“(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

“(F) the development of new, non-destructive technologies and techniques for the evaluation of elements of transportation infrastructure.

“(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

“(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

“(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

“(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

“(B) APPLICATIONS.—

“(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

“(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

“(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

“(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

“(B) encourage the use of the information and technology.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

#### “§ 504. Training and education

“(a) NATIONAL HIGHWAY INSTITUTE.—

“(1) IN GENERAL.—The Secretary shall—

“(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the ‘Institute’); and

“(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

“(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

“(A) Federal Highway Administration, State, and local transportation agency employees;

“(B) regional, State, and metropolitan planning organizations;

“(C) State and local police, public safety, and motor vehicle employees; and

“(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

“(3) COURSES.—

“(A) IN GENERAL.—The Institute shall—

“(i) develop or update existing courses in asset management, including courses that include such components as—

“(I) the determination of life-cycle costs;

“(II) the valuation of assets;

“(III) benefit-to-cost ratio calculations; and

“(IV) objective decisionmaking processes for project selection; and

“(i) continually develop courses relating to the application of emerging technologies for—

“(I) transportation infrastructure applications and asset management;

“(II) intelligent transportation systems;

“(III) operations (including security operations);

“(IV) the collection and archiving of data;

“(V) expediting the planning and development of transportation projects; and

“(VI) the intermodal movement of individuals and freight.

“(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

“(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

“(i) review the course inventory of the Institute; and

“(ii) revise or cease to offer courses based on course content, applicability, and need.

“(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

“(5) FEDERAL RESPONSIBILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies au-

thorized under this subsection may be provided—

“(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

“(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

“(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

“(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

“(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

“(B) exercise the authority of the Institute independently or in cooperation with any—

“(i) other Federal or State agency;

“(ii) association, authority, institution, or organization;

“(iii) for-profit or nonprofit corporation;

“(iv) national or international entity;

“(v) foreign country; or

“(vi) person.

“(7) COLLECTION OF FEES.—

“(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

“(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

“(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

“(ii) persons and entities to whom education or training is provided under this subsection.

“(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

“(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

“(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

“(A) paragraph (7);

“(B) memoranda of understanding;

“(C) regional compacts; and

“(D) other similar agreements.

“(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

“(A) highway and transportation agencies in urbanized areas;

“(B) highway and transportation agencies in rural areas;

“(C) contractors that perform work for the agencies; and

“(D) infrastructure security.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education

and training, technical assistance, and related support services to—

“(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

“(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

“(ii) improve roads and bridges;

“(iii) enhance—

“(I) programs for the movement of passengers and freight; and

“(II) intergovernmental transportation planning and project selection; and

“(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

“(B) develop technical assistance for tourism and recreational travel;

“(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

“(D) operate, in cooperation with State transportation departments and universities—

“(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

“(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

“(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

“(c) RESEARCH FELLOWSHIPS.—

“(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

“(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the ‘Dwight David Eisenhower Transportation Fellowship Program’, for the purpose of attracting qualified students to the field of transportation.

“§ 505. State planning and research

“(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2005 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

“(1) the conduct of engineering and economic surveys and investigations;

“(2) the planning of—

“(A) future highway programs and local public transportation systems; and

“(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

“(3) the development and implementation of management systems under section 303;

“(4) the conduct of studies on—

“(A) the economy, safety, and convenience of surface transportation systems; and

“(B) the desirable regulation and equitable taxation of those systems;

“(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

“(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

“(7) the conduct of activities relating to the planning of real-time monitoring elements.

“(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

“(A) are described in subsection (a); and

“(B) relate to highway, public transportation, and intermodal transportation systems.

“(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

“(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

“(B) the Secretary accepts the certification of the State.

“(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

“(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

“(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

“(1) combined and administered by the Secretary as a single fund; and

“(2) available for obligation for the period described in section 118(b)(2).

“(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

“§ 506. International highway transportation outreach program

“(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

“(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

“(3) to increase transfers of United States highway transportation technology to foreign countries.

“(b) ACTIVITIES.—Activities carried out under the program may include—

“(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

“(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

“(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

“(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

“(6) the gathering and dissemination of information on foreign transportation markets and industries.

“(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

“(1) Federal, State, or local agency;

“(2) authority, association, institution, or organization;

“(3) for-profit or nonprofit corporation;

“(4) national or international entity;

“(5) foreign country; or

“(6) person.

“(d) FUNDS.—

“(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

“(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

“(A) promotional materials;

“(B) travel;

“(C) reception and representation expenses; and

“(D) salaries and benefits.

“(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

“(e) REPORT.—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

“§ 507. Surface transportation-environmental cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

“(b) CONTENTS.—The program carried out under this section may include research—

“(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

“(2) to improve understanding of the factors that contribute to the demand for transportation;

“(3) to develop indicators of economic, social, and environmental performance of

transportation systems to facilitate analysis of potential alternatives;

“(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

“(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

“(c) PROGRAM ADMINISTRATION.—The Secretary shall—

“(1) administer the program established under this section; and

“(2) ensure, to the maximum extent practicable, that—

“(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

“(i) on the basis of merit of each submitted proposal; and

“(ii) through the use of open solicitations and selection by a panel of appropriate experts;

“(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

“(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

“(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.

**“§ 508. Surface transportation research technology deployment and strategic planning**

“(a) PLANNING.—

“(1) ESTABLISHMENT.—The Secretary shall—

“(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

“(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

“(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, taking into consideration national surface transportation system needs and intermodality requirements;

“(B) coordinate Federal surface transportation research, technology development, and deployment activities;

“(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

“(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

“(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

“(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Trans-

portation Equity Act of 2005, the Secretary shall establish a committee to be known as the ‘Surface Transportation Research Technology Advisory Committee’ (referred to in this section as the ‘Committee’).

“(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—

“(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

“(I) safety;

“(II) operations;

“(III) infrastructure (including pavements and structures);

“(IV) planning and environment;

“(V) policy; and

“(VI) asset management; and

“(ii) of which—

“(I) 3 members shall be individuals representing the Federal Government;

“(II) 3 members—

“(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

“(bb) shall not be officers or employees of the United States;

“(III) 3 members—

“(aa) shall represent the transportation industry (including the pavement industry); and

“(bb) shall not be officers or employees of the United States; and

“(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

“(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

“(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

“(i) the determination of surface transportation research priorities;

“(ii) the improvement of the research planning and implementation process;

“(iii) the design and selection of research projects;

“(iv) the review of research results;

“(v) the planning and implementation of technology transfer activities and

“(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).

“(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph \$178,616 for each fiscal year.

“(b) IMPLEMENTATION.—The Secretary shall—

“(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

“(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.

“(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

“(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after

the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

“(A) safety;

“(B) operations;

“(C) infrastructure (including pavements and structures);

“(D) planning and environment;

“(E) policy; and

“(F) asset management.

“(2) COMPONENTS.—The strategic plan shall specify—

“(A) surface transportation research objectives and priorities;

“(B) specific surface transportation research projects to be conducted;

“(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation research conducted; and

“(D) short- and long-term technology development and deployment activities.

“(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

“(A) the Transportation Research Board shall—

“(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

“(ii) evaluate each of the strategic plans prepared under this subsection—

“(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

“(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

“(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

“(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

“(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

**“§ 509. New strategic highway research program**

“(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

“(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—

“(1) the program shall be based on—

“(A) National Research Council Special Report No. 260, entitled ‘Strategic Highway Research’; and

“(B) the results of the detailed planning work subsequently carried out to scope the

research areas through National Cooperative Research Program Project 20–58.

“(2) the scope and research priorities of the program shall—

“(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

“(B) include an examination of—

“(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

“(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

“(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

“(iv) measures that may save the greatest number of lives in the short- and long-term;

“(v) renewal of aging infrastructure with minimum impact on users of facilities;

“(vi) driving behavior and likely crash causal factors to support improved countermeasures;

“(vii) reduction in congestion due to non-recurring congestion;

“(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

“(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

“(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

“(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

“(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

“(A) on the basis of the merit of each submitted proposal; and

“(B) through the use of open solicitations and selection by a panel of appropriate experts;

“(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

“(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

“(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

“(e) REPORT ON IMPLEMENTATION OF RESULTS.—

“(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

“(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

“(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

“(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

“(C) an estimate of costs that would be incurred in expediting implementation of those results; and

“(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

“(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

“(A) the American Association of State Highway Officials;

“(B) the Federal Highway Administration; and

“(C) the Surface Transportation Research Technology Advisory Committee.

“(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

“§ 510. University transportation centers

“(a) CENTERS.—

“(1) IN GENERAL.—During fiscal year 2005, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

“(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

“(3) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

“(A) comply with applicable requirements under subsection (c); and

“(B) be located at the institutions of higher learning specified in paragraph (4).

“(4) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

“(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

“(B) GROUP B.—Group B shall consist of the following:

- “(i) [ ]
“(ii) [ ]
“(iii) [ ]
“(iv) [ ]
“(v) [ ]
“(vi) [ ]
“(vii) [ ]
“(viii) [ ]
“(ix) [ ]
“(x) [ ]
“(xi) [ ]

“(C) GROUP C.—Group C shall consist of the following:

- “(i) [ ]
“(ii) [ ]
“(iii) [ ]
“(iv) [ ]

- “(v) [ ]
“(vi) [ ]
“(vii) [ ]
“(viii) [ ]
“(ix) [ ]
“(x) [ ]
“(xi) [ ]
“(D) GROUP D.—Group D shall consist of the following:
“(i) [ ]
“(ii) [ ]
“(iii) [ ]
“(iv) [ ]
“(v) [ ]
“(vi) [ ]
“(vii) [ ]
“(viii) [ ]

“(b) REGIONAL CENTERS.—

“(1) IN GENERAL.—Not later than September 30, 2005, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

“(2) SELECTION OF REGIONAL CENTERS.—

“(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

“(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2005 and 2006 and once for the period of fiscal years 2007 through 2009.

“(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

“(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

“(i) the location of the center within the Federal region to be served;

“(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

“(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

“(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

“(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

“(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

“(i) the Research and Special Programs Administration;

“(ii) the Federal Highway Administration; and

“(iii) the Federal Transit Administration.

“(c) CENTER REQUIREMENTS.—

“(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

“(A) shall annually contribute at least \$250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required

for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

“(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

- “(i) civil engineering;
- “(ii) transportation engineering;
- “(iii) transportation systems management and operations; or
- “(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

“(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

- “(i) a description of the purposes of programs to be conducted by the center;
- “(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;
- “(iii) a description of the nature and scope of research to be conducted by the center;
- “(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and
- “(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

“(D) shall establish an advisory committee that—

“(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

“(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and

“(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

“(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—

- “(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;
- “(ii) the research covered by the report, and to recommend modifications to individual project plans;
- “(iii) the results of the research before publication of those results; and
- “(iv) the overall outcomes of the research.

“(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

- “(i) by the Secretary, on the Internet website of the Department of Transportation; and
- “(ii) by the University Transportation Center.

“(3) APPROVAL OF PLANS.—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

“(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit

a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

“(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

“(B) the Secretary shall select a replacement recipient for the forfeited grant.

“(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

“(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

“(1) undergraduate or graduate education programs that include—

- “(A) multidisciplinary coursework; and
- “(B) opportunities for students to participate in research;

“(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

“(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

“(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

“(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

“(2) provide the annual institutional contribution required under subsection (c)(1); and

“(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that contains, at a minimum, for the fiscal year covered by the report, a description of—

- “(A) the goals of the center;
- “(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);
- “(C) teaching activities of faculty at the center;

“(D) each research project carried out by the center, including—

- “(i) the identity and location of each investigator working on a research project;
- “(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);
- “(iii) the current schedule for each research project; and
- “(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

“(E) overall technology transfer and implementation efforts of the center.

“(f) PROGRAM COORDINATION.—The Secretary shall—

- “(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

“(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

“(g) FUNDING.—

“(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

“(A) GROUP A.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of \$893,082 to each of the institutions in group A (as described in subsection (a)(4)(A)).

“(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

- “(i) \$357,240 for fiscal year 2005; and
- “(ii) \$535,860 for each of fiscal years 2006 and 2007.

“(C) GROUP C.—For each of fiscal years 2005 through 2007, the Secretary shall make a grant in the amount of \$893,082 to each of the institutions in group C (as described in subsection (a)(4)(C)).

“(D) GROUP D.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of \$1,786,164 to each of the institutions in group D (as described in subsection (a)(4)(D)).

“(E) LIMITED GRANTS FOR GROUPS B AND C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make grants in an amount totaling \$35,724,000 to not more than 15 institutions.

“(2) USE OF FUNDS.—

“(A) IN GENERAL.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

“(i) not less than \$250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

“(ii) not more than \$500,000 for the fiscal year, or \$1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

“(iii) not more than \$300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

“(B) FACILITIES AND ADMINISTRATION FEE.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

“(3) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

“§511. Multistate corridor operations and management

“(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

“(b) INTERSTATE ROUTE I-95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

“(1) IN GENERAL.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I-95 corridor coalition region initiated under the Intermodal Surface

Transportation Efficiency Act of 1991 (Public Law 102-240).

“(2) FUNDING.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall use to carry out this subsection—

- “(A) \$8,930,818 for fiscal year 2005;
- “(B) \$10,716,981 for fiscal year 2006;
- “(C) \$10,716,981 for fiscal year 2007;
- “(D) \$10,716,981 for fiscal year 2008; and
- “(E) \$10,716,981 for fiscal year 2009.

“§ 512. Transportation analysis simulation system

“(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary shall continue the deployment of the advanced transportation model known as the ‘Transportation Analysis Simulation System’ (referred to in this section as ‘TRANSIMS’) developed by the Los Alamos National Laboratory.

“(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

“(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

“(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

“(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

“(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section—

“(1) to further develop TRANSIMS for additional applications, including—

- “(A) congestion analyses;
- “(B) major investment studies;
- “(C) economic impact analyses;
- “(D) alternative analyses;
- “(E) freight movement studies;
- “(F) emergency evacuation studies;
- “(G) port studies; and
- “(H) airport access studies;

“(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

“(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

“(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

“(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

“(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009, the Secretary shall use \$893,082 to carry out this section.

“(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.”

(b) OTHER UNIVERSITY FUNDING.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by sub-

section (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) CONFORMING AMENDMENT.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term “Administration” means the Federal Highway Administration.

(2) BOARD.—The term “Board” means the Transportation Research Board of the National Academy of Sciences.

(3) BUREAU.—The term “Bureau” means the Bureau of Transportation Statistics.

(4) DEPARTMENT.—The term “Department” means the Department of Transportation.

(5) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(b) PRIORITY AREAS OF EFFORT.—

(1) STATISTICAL STANDARDS.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) STATISTICAL ANALYSIS EFFORT.—

(A) IN GENERAL.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) DUTY OF AGENCIES.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) NATIONAL SECURITY.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) MODERNIZATION.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

- (I) types of data collected;
- (II) methods of data collection;
- (III) types of analyses performed; and
- (IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

- (I) the duplication may be reduced or eliminated; and
- (II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

- (i) by the Secretary, on the Internet website of the Department; and
- (ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—Section 111 of title 49, United States Code, is amended—

- (1) by redesignating subsection (k) as subsection (m);
- (2) by inserting after subsection (j) the following:

“(k) ANNUAL REPORT.—

“(1) IN GENERAL.—For fiscal year 2005 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

“(A) describes progress made in responding to study recommendations for the fiscal year; and

“(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

“(2) AVAILABILITY.—The Bureau shall—

“(A) make the report described in paragraph (1) available to the public; and

“(B) publish the report on the Internet website of the Bureau.

“(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included

in or combined with the Transportation Statistics Annual Report required by subsection (j).

“(1) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall be used only for the collection and statistical analysis of information relating to surface transportation systems.”; and

(3) in subsection (m) (as redesignated by subparagraph (A)), by inserting “surface transportation” after “sale of”.

**SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.**

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

- (1) the environment;
- (2) operations;
- (3) surface transportation safety;
- (4) project finance; and
- (5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

- (i) the National Academy of Sciences;
- (ii) the American Association of State Highway and Transportation Officials;
- (iii) planning organizations;
- (iv) a Federal laboratory;
- (v) a State agency;
- (vi) an authority, association, institution, or organization; or
- (vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

- (i) on a competitive basis; and
- (ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 2005 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside \$8,930,818 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

**SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.**

(a) GRANTS.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 2001(a)(3), \$1,339,623 for fiscal year 2005 shall be available to carry out this section.

**SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.**

Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking “Build an” and inserting “Build or integrate an”; and

(II) by striking “\$2,000,000” and inserting “\$2,500,000”; and

(ii) in the second sentence—

(I) by striking “300,000 and that” and inserting “300,000.”; and

(II) by inserting before the period at the end the following: “, and includes major transportation corridors serving that metropolitan area”;

(B) in clause (ii), by striking all that follows “will be” and inserting “reinvested in the intelligent transportation infrastructure system.”;

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking “July 1, 2002” and inserting “the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005”;

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

“(ii) The term “follow-on deployment areas” means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Burlington Vermont, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.”;

(4) in subparagraph (F)—

(A) by striking “Of the amounts” and inserting the following:

“(i) THIS ACT.—Of the amounts”; and

(B) by adding at the end the following:

“(ii) SAFETEA.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$4,465,409 for each fiscal year to carry out this paragraph.

“(iii) AVAILABILITY; NO REDUCTION OR SET-ASIDE.—Amounts made available by this subparagraph—

“(I) shall remain available until expended; and

“(II) shall not be subject to any reduction or setaside.”; and

(5) by adding at the end the following:

“(H) USE OF RIGHTS-OF-WAY.—

“(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary determines that such use is in the public interest.

“(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.”.

**Subtitle C—Intelligent Transportation System Research**

**SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

**“SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM**

**“§ 521. Finding**

“Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

“(1) are incorporated into the national surface transportation network; and

“(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

**“§ 522. Goals and purposes**

“(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

“(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

“(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

“(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

“(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and non-motorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

“(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

“(4) accommodation of the needs of all users of surface transportation systems, including—

“(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

“(B) users of public transportation users (with respect to intelligent transportation system user services); and

“(C) individuals with disabilities; and

“(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

“(B) enhancement of national security and defense mobility.

“(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

“(1) assist in the development of intelligent transportation system technologies;

“(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

“(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

“(4) promote the innovative use of private resources;

“(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

“(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

“(7) advance commercial vehicle operations components of intelligent transportation systems—

“(A) to improve the safety and productivity of commercial vehicles and drivers; and

“(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

“(8) evaluate costs and benefits of intelligent transportation systems projects;

“(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

“(10) ensure access to transportation information and services by travelers of all ages.

**“§ 523. Definitions**

“In this subchapter:

“(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term ‘commercial vehicle information systems and networks’ means the information systems and communications networks that support commercial vehicle operations.

“(2) COMMERCIAL VEHICLE OPERATIONS.—

“(A) IN GENERAL.—The term ‘commercial vehicle operations’ means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

“(B) INCLUSIONS.—The term ‘commercial vehicle operations’, with respect to the public sector, includes—

“(i) the issuance of operating credentials;

“(ii) the administration of motor vehicle and fuel taxes; and

“(iii) roadside safety and border crossing inspection and regulatory compliance operations.

“(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term ‘intelligent transportation infrastructure’ means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

“(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term ‘intelligent transportation system’ means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

“(5) NATIONAL ITS ARCHITECTURE.—The term ‘national ITS architecture’ means the common framework for interoperability adopted by the Secretary that defines—

“(A) the functions associated with intelligent transportation system user services;

“(B) the physical entities or subsystems within which the functions reside;

“(C) the data interfaces and information flows between physical subsystems; and

“(D) the communications requirements associated with the information flows.

“(6) STANDARD.—The term ‘standard’ means a document that—

“(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

“(B) may—

“(i) support the national ITS architecture; and

“(ii) promote—

“(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

“(II) interoperability among intelligent transportation system technologies implemented throughout the States.

**“§ 524. General authorities and requirements**

“(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

“(1) to research, develop, and operationally test intelligent transportation systems; and

“(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

“(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

“(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

“(1) State and local governments and other public entities;

“(2) the private sector;

“(3) Federal laboratories (as defined in section 501); and

“(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

“(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

“(1) the Secretary of Commerce;

“(2) the Secretary of the Treasury;

“(3) the Administrator of the Environmental Protection Agency;

“(4) the Director of the National Science Foundation; and

“(5) the Secretary of Homeland Security.

“(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

“(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

“(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

“(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

“(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

“(h) ADVISORY COMMITTEES.—

“(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

“(A) may use 1 or more advisory committees; and

“(B) shall designate a public-private organization, the members of which participate in on-going research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the



Transportation Equity Act for the 21st Century (112 Stat. 454).

“(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use \$1,339,623 for each fiscal year for advisory committees described in paragraph (1).

“(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and non-traditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

“(j) EVALUATIONS.—

“(1) GUIDELINES AND REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

“(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

“(i) parties to any such test; or

“(ii) any other formal evaluation carried out under this subchapter.

“(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

“(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

#### “§ 525. National ITS Program Plan

“(a) IN GENERAL.—

“(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

“(2) SCOPE.—The National ITS Program Plan shall—

“(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

“(i) major metropolitan areas;

“(ii) smaller metropolitan and rural areas; and

“(iii) commercial vehicle operations;

“(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

“(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

“(D) establish a cooperative process with State and local governments for—

“(i) determining desired surface transportation system performance levels; and

“(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

“(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

#### “§ 526. National ITS architecture and standards

“(a) IN GENERAL.—

“(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

“(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

“(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

“(b) PROVISIONAL STANDARDS.—

“(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

“(A) after consultation with affected parties; and

“(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

“(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

“(A) after consultation with affected parties; and

“(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

“(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—

“(A) be published in the Federal Register; and

“(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

“(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—

“(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

“(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—

“(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

“(B) the reasons for and effects of granting the waiver; and

“(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

“(3) WITHDRAWAL OF WAIVER.—

“(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

“(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

“(i) each standard for which the waiver has been withdrawn; and

“(ii) the reasons for withdrawing the waiver.

“(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

“(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

“(A) the National ITS Program Plan under section 525; or

“(B) the surface transportation research and technology development strategic plan developed under section 508(c).

“(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

#### “§ 527. Commercial vehicle information systems and networks deployment

“(a) DEFINITIONS.—In this section:

“(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term ‘commercial vehicle information systems and networks’ means the information systems and communications networks that provide the capability to—

“(A) improve the safety of commercial vehicle operations;

“(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

“(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

“(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

“(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

“(2) COMMERCIAL VEHICLE OPERATIONS.—

“(A) IN GENERAL.—The term ‘commercial vehicle operations’ means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

“(B) INCLUSIONS.—The term ‘commercial vehicle operations’, with respect to the public sector, includes—

“(i) the issuance of operating credentials;

“(ii) the administration of motor vehicle and fuel taxes; and

“(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

“(3) CORE DEPLOYMENT.—The term ‘core deployment’ means the deployment of systems

in a State necessary to provide the State with—

“(A) safety information exchange to—  
“(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;  
“(ii) connect to the Safety and Fitness Electronic Records system for access to—

“(I) interstate carrier and commercial vehicle data;

“(II) summaries of past safety performance; and

“(III) commercial vehicle credentials information; and

“(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

“(B) interstate credentials administration to—

“(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

“(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

“(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

“(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

“(II) have the capability to add more carriers and to extend to branch offices where applicable; and

“(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

“(4) EXPANDED DEPLOYMENT.—The term ‘expanded deployment’ means the deployment of systems in a State that—

“(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

“(B) improve safety and the productivity of commercial vehicle operations; and

“(C) enhance transportation security.

“(b) PROGRAM.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

“(1) improve the safety and productivity of commercial vehicles and drivers; and

“(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

“(c) PURPOSE.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

“(d) CORE DEPLOYMENT GRANTS.—

“(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

“(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, a State shall—

“(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

“(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software

and system development, and infrastructure modifications)—

“(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

“(ii) promote interoperability and efficiency, to the maximum extent practicable; and

“(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

“(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed \$2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the core deployment of commercial vehicle information systems and networks.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

“(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

“(e) EXPANDED DEPLOYMENT GRANTS.—

“(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

“(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

“(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed \$1,000,000 for each State.

“(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

“(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

“(g) FUNDING.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

**“§ 528. Research and development**

“(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

“(b) PRIORITY AREAS.—Under the program, the Secretary shall give priority to funding projects that—

“(1) assist in the development of an interconnected national intelligent transportation system network that—

“(A) improves the reliability of the surface transportation system;

“(B) supports national security;

“(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

“(D) could assist in deployment of the Armed Forces in response to a crisis; and

“(E) improves response to, and evacuation of the public during, an emergency situation;

“(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

“(A) reducing metropolitan congestion by 5 percent by 2010;

“(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

“(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

“(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

“(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

“(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

“(5) incorporate human factors research, including the science of the driving process;

“(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

“(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

“(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

“(9) examine—

“(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

“(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

“(10) develop and test communication technologies that—

“(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

“(B) take into account the effectiveness and adequacy of available technology;

“(C) address systems integration, connectivity, and interoperability challenges; and

“(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

“(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

“(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

“(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

“(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

“(A) emergency services;

“(B) road pricing; and

“(C) local economic development; and

“(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

“(A) congestion-pricing;

“(B) real-time facility management;

“(C) rapid-emergency response; and

“(D) just-in-time transit.

“(C) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

“(1) the collection of data to permit objective evaluation of the results of the tests;

“(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

“(3) the development and implementation of standards.

“(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

#### “§ 529. Use of funds

“(a) IN GENERAL.—For each fiscal year, not more than \$5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

“(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.”.

(b) CONFORMING AMENDMENT.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

### TITLE III—RECREATIONAL BOATING SAFETY PROGRAMS

#### SEC. 3001. SHORT TITLE.

This title may be cited as the “Sport Fishing and Recreational Boating Safety Act”.

#### SEC. 3002. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,” approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

#### SEC. 3003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking “the succeeding fiscal year.” in the third sentence and inserting “succeeding fiscal years.”; and

(2) by striking “in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation.” and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).”.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended in the first sentence—

(A) by striking “Sport Fish Restoration Account” and inserting “Sport Fish Restoration Trust Fund”; and

(B) by striking “that Account” and inserting “that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2004.

#### SEC. 3004. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (c) and redesignating subsections (d) through (g) as subsections (b) through (e), respectively;

(2) by inserting before subsection (b) (as redesignated by paragraph (1)), the following:

“(a) IN GENERAL.—For fiscal years 2004 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 of this title remaining after the distributions are made for administrative expenses and other purposes under section 4(b) and for multistate conservation grants under section 14 shall be distributed as follows:

“(1) COASTAL WETLANDS.—18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

“(2) BOATING SAFETY.—18.5 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

“(3) CLEAN VESSEL ACT.—2 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(4) BOATING INFRASTRUCTURE.—2 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)).

“(5) NATIONAL OUTREACH AND COMMUNICATIONS.—2 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this title. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c).”.

(3) in subsection (b)(1) (as redesignated by paragraph (1)), by striking subparagraph (A) and inserting the following:

“(A) SET-ASIDE.—For fiscal year 2006 and each subsequent fiscal year, before making a distribution under subsection (a), the Secretary of the Interior may use not more than the available amount specified in subparagraph (B) for the fiscal year for expenses of administration incurred in the implementation of this chapter, in accordance with this section and section 9.”;

(4) in subsection (c) (as redesignated by paragraph (1)), by striking the subsection heading and all that follows through the colon in the first sentence and inserting the following:

“(c) APPORTIONMENT AMONG STATES.—For fiscal year 2006 and each subsequent fiscal year, after the distribution, transfer, use, and deduction under subsection (b), and after deducting amounts for grants under section 14, the Secretary of the Interior shall apportion 57 percent of the balance of each annual appropriation among the several States in the following manner:”;

(5) by striking “per centum” each place it appears in subsection (c) (as redesignated by paragraph (1)) and inserting “percent”;

(6) in paragraph (1) of subsection (e) (as redesignated by paragraph (1)), by striking “subsections (a), (b)(3)(A), (b)(3)(B), and (c)” and inserting “paragraphs (1), (3), (4), and (5) of subsection (a)”;

(7) by adding at the end the following:

“(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.”.

#### SEC. 3005. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking “in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.” in subsection (b)(2) and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c).”;

(2) in subsection (d)(3), by striking “subsection (c) or (d) of section 4” and inserting “section 4(a)(5) or section 4(b)”.

#### SEC. 3006. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended by striking “section 4(b)(3)(B)” and inserting “section 4(a)(4)”.

#### SEC. 3007. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking “section 4(d)(1)” in subsection (a) and inserting “section 4(b)”;

(2) by striking “section 4(d)(1)” in subsection (b)(1) and inserting “section 4(b)”.

#### SEC. 3008. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking “in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.” and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this title.”.

#### SEC. 3009. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

“(a) IN GENERAL.—

“(1) AMOUNT FOR GRANTS.—For fiscal year 2004 and each subsequent fiscal year, not more than \$3,000,000 of each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.”;

(2) by striking “section 4(e)” each place it appears in subsection (a)(2)(B) and inserting “section 4(c)”;

(3) by striking “Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—” in subsection (e) and inserting “Of amounts made available under section 4(b) for each fiscal year—”.

**TITLE IV—SOLID WASTE DISPOSAL**

**SEC. 4001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

**“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

“(a) DEFINITIONS.—In this section:

“(1) AGENCY HEAD.—The term ‘agency head’ means—

“(A) the Secretary of Transportation; and  
“(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

“(2) CEMENT OR CONCRETE PROJECT.—The term ‘cement or concrete project’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

“(A) involves the procurement of cement or concrete; and

“(B) is carried out in whole or in part using Federal funds.

“(3) RECOVERED MINERAL COMPONENT.—The term ‘recovered mineral component’ means—

“(A) ground granulated blast furnace slag; and  
“(B) coal combustion fly ash; and

“(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

“(b) IMPLEMENTATION OF REQUIREMENTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

“(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

“(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

“(c) FULL IMPLEMENTATION STUDY.—

“(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

“(2) MATTERS TO BE ADDRESSED.—The study shall—

“(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

“(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

“(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

“(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

“(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

“(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

“(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

“(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

“(2) eliminate barriers identified under subsection (c).

“(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).”

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”

**SEC. 4002. USE OF GRANULAR MINE TAILINGS.**

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

**“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

“(a) MINE TAILINGS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as ‘chat’, for—

“(A) cement or concrete projects; and

“(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

“(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

“(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

“(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

“(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

“(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

“(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.”

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 4001(b)) is amended by adding after the item relating to section 6005 the following:

“Sec. 6006. Use of granular mine tailings.”

**SA 568.** Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**TITLE \_\_\_\_\_—OVERSEAS SUBSIDIES**

**SECTION \_\_\_\_\_ 01. SHORT TITLE.**

This title may be cited as the “Stopping Overseas Subsidies Act of 2005”.

**SEC. \_\_\_\_\_ 02. APPLICATION OF COUNTERVALUING DUTIES TO NONMARKET ECONOMY COUNTRIES.**

Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting “(including a nonmarket economy country)” after “country” each place it appears.

**SEC. \_\_\_\_\_ 03. EFFECTIVE DATE.**

The amendments made by section \_\_\_\_\_ 02 apply to petitions filed under section 702 of the Tariff Act of 1930 on or after the date of the enactment of this title.

**SA 569.** Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of chapter 3 of subtitle E of title I, add the following:

**SEC. \_\_\_\_\_. INTERSTATE ROUTE I-14 AND 3RD INFANTRY DIVISION HIGHWAY.**

Not later than December 31, 2005, any funds made available to commission a study and report regarding the construction and designation of a new Interstate route linking Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a new interstate route to be designated as “Interstate Route I-14” and known as the 14th Amendment Highway, from Augusta, Georgia to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a new interstate route for the 3rd Infantry Division Highway, extending from Savannah,

Georgia, to Knoxville, Tennessee (formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesboro, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

**SA 570.** Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of chapter 3 of subtitle E of title I, add the following:

**SEC. \_\_\_\_ . INTERSTATE ROUTE I-14 AND 3RD INFANTRY DIVISION HIGHWAY.**

Not later than December 31, 2005, any funds made available to commission a study and report regarding construction and designation of a new Interstate route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a new interstate route to be designated as “Interstate Route I-14” and known as the 14th Amendment Highway, from Augusta, Georgia to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a new interstate route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee (formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesboro, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

**SA 571.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the of subtitle H of title I, add the following:

**SEC. 18 \_\_\_\_ . APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECT.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall approve project STP-189-1(15)CT 3 in Gwinnett County, Georgia, and reserve such Federal funds available to the Secretary as are necessary for the project, not later than 30 days after the date of receipt by the Secretary of a construction authorization request from the State of Georgia, Department of Transportation for the project.

(b) EXEMPT PROJECT.—The project shall be considered to be an exempt project under section 93.126 of title 40, Code of Federal Regulations (or successor regulations).

**SA 572.** Mr. THUNE proposed an amendment to amendment SA 567 proposed by Mr. INHOPE to the bill H.R. 3, Reserved; as follows:

Strike section 1602(a) and insert the following:

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—  
(A) in paragraph (1), by striking “the roads as” and all that follows and inserting “the roads as—

“(A) National Scenic Byways;

“(B) All-American Roads; or

“(C) America’s Byways.”;

(B) in paragraph (3)—

(i) by striking “To be considered” and inserting the following:

“(A) IN GENERAL.—To be considered”;

(ii) in subparagraph (A) (as designated by clause (i))—

(I) by inserting “, an Indian tribe, ” after “nominated by a State”; and

(II) by inserting “, an Indian scenic byway,” after “designated as a State scenic byway”; and

(iii) by adding at the end the following:

“(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

“(i) jurisdiction over the road; or

“(ii) responsibility for managing the road.

“(C) SAFETY.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).”; and

(C) by adding at the end the following:

“(4) RECIPROCAL NOTIFICATION.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

“(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

“(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “and Indian tribes” after “provide technical assistance to States”;;

(ii) in subparagraph (A), by striking “designated as” and all that follows and inserting “designated as—

“(i) National Scenic Byways;

“(ii) All-American Roads;

“(iii) America’s Byways;

“(iv) State scenic byways; or

“(v) Indian scenic byways; and”;

(iii) in subparagraph (B), by inserting “or Indian” after “State”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “Byway or All-American Road” and inserting “Byway, All-American Road, or 1 of America’s Byways”;

(ii) in subparagraph (B)—

(I) by striking “State-designated” and inserting “State or Indian”; and

(II) by striking “designation as a” and all that follows and inserting “designation as—

“(i) a National Scenic Byway;

“(ii) an All-American Road; or

“(iii) 1 of America’s Byways; and”;

(iii) in subparagraph (C), by inserting “or Indian” after “State”;

(3) in subsection (c)—

(A) in paragraph (1), by inserting “or Indian” after “State”;

(B) in paragraph (3)—

(i) by inserting “Indian scenic byway,” after “improvements to a State scenic byway,”; and

(ii) by inserting “Indian scenic byway,” after “designation as a State scenic byway,”; and

(C) in paragraph (4), by striking “passing lane,”; and

(4) in subsection (e), by inserting “or Indian tribe” after “State”.

was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE VI—PUBLIC TRANSPORTATION**

**SEC. 6001. SHORT TITLE.**

This title may be cited as the “Federal Public Transportation Act of 2005”.

**SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.**

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking “mass transportation” each place it appears and inserting “public transportation”.

**SEC. 6003. POLICIES, FINDINGS, AND PURPOSES.**

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

“(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.”.

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking “70 percent” and inserting “two-thirds”; and

(2) by striking “urban areas” and inserting “urbanized areas”.

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking “an urban” and inserting “a”; and

(2) by striking “under sections 5309 and 5310 of this title”.

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking “improved mass” and inserting “improved public”; and

(B) by striking “public and private mass transportation companies” and inserting “public transportation companies and private companies engaged in public transportation”;

(2) in paragraph (2)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public and private mass transportation companies” and inserting “public transportation companies and private companies engaged in public transportation”;

(3) in paragraph (3)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public or private mass transportation companies” and inserting “public transportation companies or private companies engaged in public transportation”; and

(4) in paragraph (5), by striking “urban mass” and inserting “public”.

**SEC. 6004. DEFINITIONS.**

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting “including the intercity bus and intercity rail portions of such facility or mall,” after “transportation mall,”;

(B) in subparagraph (G)(ii), by inserting “, except for the intercity bus portion of intermodal facilities or malls,” after “commercial revenue-producing facility”;

**SA 573.** Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which

(C) in subparagraph (H)—  
 (i) by striking “and” after “innovative” and inserting “or”; and  
 (ii) by striking “or” after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:  
 “(J) crime prevention and security, including—

“(i) projects to refine and develop security and emergency response plans; or

“(ii) projects to detect chemical or biological agents in public transportation;

“(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

“(L) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.”;

(2) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively;

(3) by striking paragraph (7) and inserting the following:

“(7) MASS TRANSPORTATION.—The term ‘mass transportation’ means public transportation.

“(8) MOBILITY MANAGEMENT.—The term ‘mobility management’ means a short-range planning or management activity or project that does not include operating public transportation services and—

“(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

“(B) addresses customer needs by tailoring public transportation services to specific market niches; or

“(C) manages public transportation demand.”;

(4) by amending paragraph (11), as redesignated, to read as follows:

“(11) PUBLIC TRANSPORTATION.—The term ‘public transportation’ means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.”;

(5) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking “and” each place it appears and inserting “or”; and

(6) by amending paragraph (18), as redesignated, to read as follows:

“(18) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

**SEC. 6005. METROPOLITAN TRANSPORTATION PLANNING.**

Section 5303 is amended to read as follows:

**“§ 5303. Metropolitan transportation planning**

“(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

“(1) CONSULTATION.—A ‘consultation’ occurs when 1 party—

“(A) confers with another identified party in accordance with an established process;

“(B) prior to taking action, considers the views of the other identified party; and

“(C) periodically informs that party about action taken.

“(2) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement

between the metropolitan planning organization and the Governor under subsection (d).

“(3) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the Policy Board of the organization designated under subsection (c).

“(4) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means any geographic area outside all designated metropolitan planning areas.

“(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

“(b) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

“(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

“(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

“(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop plans and programs for adoption by a metropolitan planning organization; and

“(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2005 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in accordance with subsection (c)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

“(e) COORDINATION IN MULTISTATE AREAS.—  
“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—States are authorized—

“(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

“(C) INTERSTATE COMPACT.—

“(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

“(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an

area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

“(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

“(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

“(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under this chapter;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204 of title 23.

“(g) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

“(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

“(B) increasing the safety of the transportation system for motorized and non-motorized users;

“(C) increasing the security of the transportation system for motorized and non-motorized users;

“(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

“(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation

and development goals of the metropolitan area);

“(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

“(G) promoting efficient system management and operation; and

“(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

“(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

“(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

“(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

“(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

“(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

“(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(2) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(3) CONTENTS.—A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

“(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning

organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

“(B) a financial plan that—

“(i) demonstrates how the adopted transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

“(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

“(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

“(E) proposed transportation and transit enhancement activities.

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve—

“(i) comparison of transportation plans with State conservation plans or with maps, if available;

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in non-attainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

“(A) approved by the metropolitan planning organization; and

“(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

“(i) PARTICIPATION BY INTERESTED PARTIES.—

“(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

“(A) citizens;

“(B) affected public agencies;

“(C) representatives of public transportation employees;

“(D) freight shippers;

“(E) providers of freight transportation services;

“(F) private providers of transportation;

“(G) representatives of users of public transit;

“(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

“(I) other interested parties.

“(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

“(A) shall be developed in a manner the Secretary determines to be appropriate;

“(B) shall be developed in consultation with all interested parties; and

“(C) shall provide that all interested parties have reasonable opportunities to comment on—

“(i) the process for developing the transportation plan; and

“(ii) the contents of the transportation plan.

“(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

“(A) hold any public meetings at convenient and accessible locations and times;

“(B) employ visualization techniques to describe plans; and

“(C) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT AND UPDATE.—

“(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

“(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

“(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

“(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

“(i) appropriate public involvement;

“(ii) financial planning;

“(iii) transportation conformity analyses; and

“(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

“(2) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

“(3) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

“(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

“(ii) by the designated recipient, in the case of projects under section 5307; and

“(iii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

“(4) PUBLICATION REQUIREMENTS.—

“(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

“(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations specifying—

“(i) the types of data to be included in the list described in subparagraph (B), including—

“(I) the name, type, purpose, and geocoded location of each project;

“(II) the Federal, State, and local identification numbers assigned to each project;

“(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

“(IV) the status of each project; and

“(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area



with a population of more than 200,000 individuals as a transportation management area.

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

“(3) CONGESTION MANAGEMENT SYSTEM.—

“(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

“(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

“(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

“(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

“(C) PENALTY FOR FAILING TO CERTIFY.—

“(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

“(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(E) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

“(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

#### SEC. 6006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

##### “§ 5304. Statewide transportation planning

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a “Plan”) and a statewide transportation improvement program (referred to in this section as a “Program”) for all areas of the State subject to section 5303.

“(2) CONTENTS.—The Plan and the Program developed for each State shall provide for

the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

“(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

“(1) coordinate planning under this section with—

“(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

“(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation and efficient use of the existing transportation system.

“(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall

determine which of the projects and strategies described in paragraph (1) are most appropriate.

“(3) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

“(I) land use management;

“(II) natural resources;

“(III) environmental protection;

“(IV) conservation; and

“(V) historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

“(I) comparison of transportation plans to State conservation plans or maps, if available;

“(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

“(B) to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A Plan shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

“(A) demonstrates how the adopted Plan can be implemented;

“(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

“(C) recommends any additional financing strategies for needed projects and programs; and

“(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

“(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—

“(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

“(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) INDIVIDUAL IDENTIFICATION.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

“(i) consistent with the Plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project,

unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—The Program may include a financial plan that—

“(i) demonstrates how the approved Program can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

“(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

“(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State’s air quality implementation plan.

“(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

“(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

“(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

“(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

“(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

“(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and section 5308 of this title shall be available to carry out this section.

“(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303,

State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

“(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

**SEC. 6007. TRANSPORTATION MANAGEMENT AREAS.**

Section 5305 is repealed.

**SEC. 6008. PRIVATE ENTERPRISE PARTICIPATION.**

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking “5305 of this title” and inserting “5308”; and

(B) by inserting “, as determined by local policies, criteria, and decision making,” after “feasible”;

(2) in subsection (b) by striking “5303–5305 of this title” and inserting “5303, 5304, and 5308”; and

(3) by adding at the end the following:

“(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.”

**SEC. 6009. URBANIZED AREA FORMULA GRANTS.**

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

“(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas designated under section 5303; or”;

(2) by adding at the end the following:

“(3) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.”

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

“(A) capital projects, including associated capital maintenance items;

“(B) planning, including mobility management;

“(C) transit enhancements;

“(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

“(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with

a population of at least 200,000, but not more than 225,000, if—

“(i) the urbanized area includes parts of more than 1 State;

“(ii) the portion of the urbanized area includes only 1 State;

“(iii) the population of the portion of the urbanized area is less than 30,000; and

“(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.”;

(2) by amending paragraph (2) to read as follows:

“(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2007.—

“(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2007, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

“(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

“(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

“(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

“(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

“(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

“(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

“(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2007.—In fiscal year 2007—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.”; and

(3) by striking paragraph (4).

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting “, including safety and security aspects of the program” after “program”;

(2) in subparagraph (E), by striking “section” and all that follows and inserting “section, the recipient will comply with sections 5323 and 5325”;

(3) in subparagraph (H), by striking “sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title” and inserting “subsections (a) and (d) of section 5301 and sections 5303 through 5306”;

(4) in subparagraph (I) by striking “and” at the end;

(5) in subparagraph (J), by striking the period at the end and inserting “; and”; and

(6) by adding at the end the following:

“(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).”.

(e) GOVERNMENT’S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.”;

(2) by striking “A grant for operating expenses” and inserting the following:

“(2) OPERATING EXPENSES.—A grant for operating expenses”;

(3) by striking the fourth sentence and inserting the following:

“(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization.”; and

(4) by adding at the end the following: “The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.”.

(f) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(g) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

“(k) RELATIONSHIP TO OTHER LAWS.—

“(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

“(2) INAPPLICABLE PROVISIONS.—

“(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

“(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.”.

#### SEC. 6010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

##### “§ 5308. Planning programs

“(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

“(1) develop transportation plans and programs;

“(2) plan, engineer, design, and evaluate a public transportation project; or

“(3) conduct technical studies relating to public transportation, including—

“(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

“(B) evaluations of previously financed projects;

“(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

“(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

“(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

“(c) METROPOLITAN PLANNING PROGRAM.—

“(1) ALLOCATIONS TO STATES.—

“(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

“(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

“(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

“(A) developed by the State in cooperation with the metropolitan planning organizations;

“(B) approved by the Secretary of Transportation;

“(C) that considers population in urbanized areas; and

“(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

“(3) SUPPLEMENTAL ALLOCATIONS.—

“(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made avail-

able under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

“(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

“(d) STATE PLANNING AND RESEARCH PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

“(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

“(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

“(e) PLANNING CAPACITY BUILDING PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the “Program”) to support and fund innovative practices and enhancements in transportation planning.

“(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

“(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

“(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

“(ii) to conduct research, disseminate information, and provide technical assistance.

“(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

“(i) expend appropriated funds directly; or

“(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

“(f) GOVERNMENT’S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

“(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2006 and each fiscal year thereafter to carry out this section—

“(1) \$5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

“(2) \$20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

“(3) of the remaining amount—

“(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

“(B) 17.28 percent shall be allocated to carry out subsection (b).

“(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows: “5308. Planning programs.”.

#### SEC. 6011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows: “§ 5309. Capital investment grants”.

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking “(1) The Secretary of Transportation may make grants and loans” and inserting the following:

“(1) GRANTS AUTHORIZED.—The Secretary may award grants”;

(B) in subparagraph (A), by striking “alternatives analysis related to the development of systems.”;

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting “, including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and”;

(F) in subparagraph (D), as redesignated—

(i) by striking “to support fixed guideway systems”;

(ii) by striking “dedicated bus and high occupancy vehicle”;

(2) by amending paragraph (2) to read as follows:

“(2) GRANTEE REQUIREMENTS.—

“(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

“(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

“(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

“(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project.”; and

(3) by adding at the end the following:

“(3) CERTIFICATION.—An applicant that has submitted the certifications required under

subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.”.

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

“(b) DEFINED TERM.—As used in this section, the term ‘alternatives analysis’ means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

“(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

“(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

“(3) the selection of a locally preferred alternative; and

“(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.”.

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

“(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

“(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

“(2) the applicant has, or will have—

“(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

“(B) satisfactory continuing control over the use of the equipment or facilities; and

“(C) the capability and willingness to maintain the equipment or facilities.”.

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF \$75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

“(e) MAJOR CAPITAL INVESTMENT PROJECTS OF \$75,000,000 OR MORE.—

“(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than \$75,000,000 under this subsection for a new fixed guideway capital project that—

“(A) is authorized for final design and construction; and

“(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

“(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

“(A) based on the results of an alternatives analysis and preliminary engineering;

“(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

“(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

“(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

“(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(C) the direct and indirect costs of relevant alternatives;

“(D) factors such as—

“(i) congestion relief;

“(ii) improved mobility;

“(iii) air pollution;

“(iv) noise pollution;

“(v) energy consumption; and

“(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

“(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

“(F) the cost of suburban sprawl;

“(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

“(H) population density and current transit ridership in the transportation corridor;

“(I) the technical capability of the grant recipient to construct the project;

“(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

“(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

“(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

“(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

“(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

“(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(ii) existing grant commitments;

“(iii) the degree to which financing sources are dedicated to the proposed purposes;

“(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

“(5) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the

project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

“(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

“(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

“(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations in the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

“(8) POLICY GUIDANCE.—

“(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

“(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

“(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

“(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

“(i) invite public comment to the policy guidance published under subparagraph (A); and

“(ii) publish a response to the comments received under clause (i).”

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN \$75,000,000.—Section 5309(f) is amended to read as follows:

“(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN \$75,000,000.—

“(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

“(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than \$75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

“(i) is authorized by law; and

“(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

“(B) CONTENTS.—

“(i) IN GENERAL.—An agreement under this paragraph shall specify—

“(I) the scope of the project to be constructed;

“(II) the estimated net cost of the project;

“(III) the schedule under which the project shall be constructed;

“(IV) the maximum amount of funding to be obtained under this subsection;

“(V) the proposed schedule for obligation of future Federal grants; and

“(VI) the sources of non-Federal funding.

“(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be con-

sidered a full funding grant agreement for the purposes of subsection (g).

“(2) SELECTION PROCESS.—

“(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

“(i) based on the results of planning and alternatives analysis;

“(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

“(iii) supported by an acceptable degree of local financial commitment.

“(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

“(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

“(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

“(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

“(iii) determine the degree to which the project will have a positive effect on local economic development;

“(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

“(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

“(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

“(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

“(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

“(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

“(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

“(4) IMPACT REPORT.—

“(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guide-

way projects with respect to land use and economic development impacts.

“(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.”

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

“(C) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies sources of differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

“(dd) analysis of the consistency of predicted project characteristics with the after data.

“(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

“(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

“(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.”

(h) GOVERNMENT SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

“(h) GOVERNMENT SHARE OF ADJUSTED NET PROJECT COST.—

“(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility,

and information on the expected use of equipment or facilities.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM GOVERNMENT SHARE.—

“(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

“(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

“(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

“(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

“(A) an undistributed cash surplus;

“(B) a replacement or depreciation cash fund or reserve; or

“(C) new capital, including any Federal funds that are eligible to be expended for transportation.

“(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

“(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).”.

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

“(i) ALLOCATING AMOUNTS.—

“(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

“(A) \$1,437,829,600 shall be allocated for projects of not less than \$75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

“(B) \$1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

“(C) \$669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2006 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

“(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

“(i) new fixed guideway systems and extensions of not less than \$75,000,000, in accordance with subsection (e); and

“(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

“(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

“(4) PRELIMINARY ENGINEERING.—Not more than 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

“(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), \$10,400,000 shall be available in each of the fiscal years 2005 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

“(6) BUS AND BUS FACILITY GRANTS.—

“(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

“(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

“(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than \$75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.”.

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

“(m) REPORTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

“(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

“(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

“(ii) a recommendation of projects to be funded based on—

“(I) the evaluations and ratings determined under subsection (e) and (f); and

“(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

“(iii) detailed ratings and evaluations on each project recommended for funding.

“(2) TRIANNUAL REPORTS ON PROJECT RATINGS.—

“(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

“(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

“(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

“(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

“(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

“(A) the Committee on Transportation and Infrastructure of the House of Representatives;

“(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(C) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

“(D) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

“(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

“(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

“(i) estimates made at the time projects are approved for entrance into final design;

“(ii) costs and ridership when the project commences revenue operation; and

“(iii) costs and ridership when the project has been in operation for 2 years.

“(5) ANNUAL GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—

“(A) REVIEW.—The Comptroller General of the United States shall conduct an annual

review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

“(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

“(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.”.

(7) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for fixed guideway projects under this section.

SEC. 6012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

“§ 5310. New freedom for elderly persons and persons with disabilities

“(a) GENERAL AUTHORITY.—

“(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

“(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

“(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(b) ALLOTMENTS AMONG STATES.—

“(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

“(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

“(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

- “(A) a private nonprofit organization;
- “(B) a public transportation agency or authority; or

“(C) a governmental authority that—

“(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

“(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

“(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

“(c) GOVERNMENT SHARE.—

“(1) MAXIMUM.—

“(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Government share in accordance with the formula under that section.

“(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

“(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

“(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(d) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

“(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

“(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(e) STATE PROGRAM OF PROJECTS.—

“(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

“(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

“(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

“(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows: “5310. New freedom for elderly persons and persons with disabilities.”.

SEC. 6013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.”.

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

- “(A) public transportation capital projects;
- “(B) operating costs of equipment and facilities for use in public transportation; and
- “(C) the acquisition of public transportation services.”;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.”;

(4) in paragraph (3), as redesignated—

(A) by striking “(3) The Secretary of Transportation” and inserting the following:

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—



“(A) ESTABLISHMENT.—The Secretary”;

(B) by striking “make” and inserting “use not more than 2 percent of the amount made available to carry out this section to award”; and

(C) by adding at the end the following:

“(B) DATA COLLECTION.—

“(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(I) total annual revenue;

“(II) sources of revenue;

“(III) total annual operating costs;

“(IV) total annual capital costs;

“(V) fleet size and type, and related facilities;

“(VI) revenue vehicle miles; and

“(VII) ridership.”; and

(5) by adding after paragraph (3) the following:

“(4) Of the amount made available to carry out paragraph (3)—

“(A) not more than 15 percent may be used to carry out projects of a national scope; and

“(B) any amounts not used under subparagraph (A) shall be allocated to the States.”.

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$8,000,000 for fiscal year 2006.

“(B) \$10,000,000 for fiscal year 2007.

“(C) \$12,000,000 for fiscal year 2008.

“(D) \$15,000,000 for fiscal year 2009.

“(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

“(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

“(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

“(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

“(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

“(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.”.

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking “AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation” and inserting “, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary”;

(2) by striking “to a recipient”; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking “(1)” and inserting the following:

“(1) IN GENERAL.—”; and

(B) by striking “after September 30, 1993.”; and

(2) in paragraph (2)—

(A) by striking “A State” and inserting “After consultation with affected intercity bus service providers, a State”; and

(B) by striking “of Transportation”.

(f) GOVERNMENT SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

“(g) GOVERNMENT SHARE OF COSTS.—

“(1) MAXIMUM GOVERNMENT SHARE.—

“(A) CAPITAL PROJECTS.—

“(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Government share of the net capital costs in accordance with the formula under that section.

“(B) OPERATING ASSISTANCE.—

“(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under subparagraph (A)(ii).

“(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

“(A) may be provided from—

“(i) an undistributed cash surplus;

“(ii) a replacement or depreciation cash fund or reserve;

“(iii) a service agreement with a State or local social service agency or a private social service organization; or

“(iv) new capital; and

“(B) may be derived from amounts appropriated to or made available to a Government agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

“(3) USE OF GOVERNMENT GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

“(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.”.

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking “but the Secretary of Labor may waive the application of section 5333(b)” and inserting “if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees”.

**SEC. 6014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.**

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

“(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for

research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

“(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

“(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.”;

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b)(2), as redesignated, by striking “other agreements” and inserting “other transactions”; and

(5) in subsection (c)(2), as redesignated, by striking “public and private” and inserting “public or private”.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

**“§ 5312. Research, development, demonstration, and deployment projects”.**

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

“5312. Research, development, demonstration, and deployment projects.”.

**SEC. 6015. TRANSIT COOPERATIVE RESEARCH PROGRAM.**

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking “(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title” and inserting “The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(b) GOVERNMENT ASSISTANCE.—”; and

(3) by amending subsection (c) to read as follows:

“(c) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with such benefit.”.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

**“§ 5313. Transit cooperative research program”.**

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

“5313. Transit cooperative research program.”.

**SEC. 6016. NATIONAL RESEARCH PROGRAMS.**

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.”;

(B) in paragraph (2), by striking “(2) Of” and inserting the following:

“(2) ADA COMPLIANCE.—From”;

(C) by amending paragraph (3) to read as follows:

“(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under

paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than \$100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.”;

(D) in paragraph (4)—  
 (i) by striking subparagraph (B); and  
 (ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:  
 “(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

“(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

“(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

“(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

“(ii) is an agency of a State or unit of local government.

“(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

“(D) APPLICATION.—

“(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

“(ii) SELECTION OF GRANTEEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

“(I) high incidence of renal disease; and  
 “(II) limited access to dialysis facilities.

“(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

“(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”; and

(2) by amending subsection (b) to read as follows:

“(b) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Government share consistent with such benefit.”.

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

“(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

“(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

“(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

“(A) focuses significantly on serving the needs of the elderly;

“(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

“(C) has affiliates in a majority of the States;

“(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

“(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

“(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

“(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

“(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

“(C) provide resources on ways to pay for senior transportation services;

“(D) create a web site to publicize and circulate information on senior transportation programs;

“(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

“(F) administer the demonstration grant program established under paragraph (4).

“(4) GRANTS AUTHORIZED.—

“(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

“(i) local transportation organizations;  
 “(ii) State agencies;  
 “(iii) units of local government; and  
 “(iv) nonprofit organizations.

“(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

“(i) evaluate the state of transportation services for senior citizens;

“(ii) recognize barriers to mobility that senior citizens encounter in their communities;

“(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

“(iv) identify future transportation needs of senior citizens within local communities; and

“(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

“(C) SELECTION OF GRANTEEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

“(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, \$3,000,000 shall be allocated to carry out this subsection.

“(d) ALTERNATIVE FUELS STUDY.—

“(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

“(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

“(3) CONTENTS.—The study shall consider—

“(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

“(B) existing opportunities available to transit system operators that encourage the

purchase of alternative fuels for transit vehicle operation;

“(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

“(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

“(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

“(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives”.

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

“§ 5314. National research programs”.

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

“5314. National research programs.”.

SEC. 6017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

“(b) DUTIES.—

“(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

“(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

“(A) intermodal and public transportation planning;

“(B) management;

“(C) environmental factors;

“(D) acquisition and joint use rights of way;

“(E) engineering and architectural design;

“(F) procurement strategies for public transportation systems;

“(G) turnkey approaches to delivering public transportation systems;

“(H) new technologies;

“(I) emission reduction technologies;

“(J) ways to make public transportation accessible to individuals with disabilities;

“(K) construction, construction management, insurance, and risk management;

“(L) maintenance;

“(M) contract administration;

“(N) inspection;

“(O) innovative finance;

“(P) workplace safety; and

“(Q) public transportation security.”; and

(2) in subsection (d), by striking “mass” each place it appears.

SEC. 6018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking “ESTABLISHMENT.—The Secretary of Transportation shall establish

one facility” and inserting “IN GENERAL.—The Secretary shall maintain 1 facility”; and  
 (B) by striking “established by renovating” and inserting “maintained at”; and  
 (2) in subsection (d), by striking “section 5309(m)(1)(C) of this title” and inserting “paragraphs (1)(C) and (2)(B) of section 5309(i)”.

**SEC. 6019. BICYCLE FACILITIES.**

Section 5319 is amended by striking “5307(k)” and inserting “5307(d)(1)(K)”.

**SEC. 6020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.**

Section 5320 is repealed.

**SEC. 6021. CRIME PREVENTION AND SECURITY.**

Section 5321 is repealed.

**SEC. 6022. GENERAL PROVISIONS ON ASSISTANCE.**

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(2) LIMITATION.—”;

(2) by amending subsection (b) to read as follows:

“(b) NOTICE AND PUBLIC HEARING.—

“(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

“(A) provided an adequate opportunity for public review and comment on the project;

“(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

“(C) considered the economic, social, and environmental effects of the project; and

“(D) found that the project is consistent with official plans for developing the urban area.

“(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

“(A) shall include a concise description of the proposed project; and

“(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.”;

(3) by amending subsection (e) to read as follows:

“(e) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.”;

(4) in subsection (f)—

(A) by striking “(1)” and inserting the following:

“(1) IN GENERAL.—”;

(B) by striking paragraph (2);

(C) by striking “This subsection” and inserting the following:

“(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

“(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.”;

(5) in subsection (g), by striking “103(e)(4) and 142 (a) or (c)” each place it appears and inserting “133 and 142”;

(6) by amending subsection (h) to read as follows:

“(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

“(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

“(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

“(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.”;

(7) in subsection (j)(5), by striking “Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)” and inserting “Federal Public Transportation Act of 2005”;

(8) by amending subsection (l) to read as follows:

“(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.”;

(9) in subsection (m), by adding at the end the following: “Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.”;

(10) in subsection (o), by striking “the Transportation Infrastructure Finance and Innovation Act of 1998” and inserting “subchapter II of chapter 1 of title 23”; and

(11) by adding at the end the following: “(D) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.”;

“(q) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or non-project operating expenses.”.

**SEC. 6023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

(a) IN GENERAL.—Section 5324 is amended to read as follows:

**“§ 5324. Special provisions for capital projects**

“(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

“(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

“(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

“(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

“(C) recent appraisals reflect a rapid increase in the fair market value of the property;

“(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

“(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

“(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary’s objective evaluation of project alternatives.

“(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

**“(c) RAILROAD CORRIDOR PRESERVATION.—**

“(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

**“(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—**

“(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary’s findings under this paragraph shall be made a matter of public record.

“(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.”

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows: “5324. Special provisions for capital projects.”

**SEC. 6024. CONTRACT REQUIREMENTS.**

(a) IN GENERAL.—Section 5325 is amended to read as follows:

**“§ 5325. Contract requirements**

“(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

**“(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—**

“(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

“(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) After a firm’s indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for

the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

“(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

“(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

**“(d) DESIGN-BUILD PROJECTS.—**

“(1) DEFINED TERM.—As used in this subsection, the term ‘design-build project’—

“(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

“(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

“(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

**“(e) ROLLING STOCK.—**

“(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(A) with a party selected through a competitive procurement process; or

“(B) based on—

“(i) initial capital costs; or

“(ii) performance, standardization, life cycle costs, and other factors.

“(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

“(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

“(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

“(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

**“(i) AWARDS TO RESPONSIBLE CONTRACTORS.—**

“(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

“(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

“(A) the integrity of the contractor;

“(B) the contractor’s compliance with public policy;

“(C) the contractor’s past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

“(D) the contractor’s financial and technical resources.”

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

**SEC. 6025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.**

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11), by striking “and” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(13) safety and security management.”

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.”; and

(2) in paragraph (2)—

(A) by striking “(2)” and inserting the following:

“(2) OTHER ALLOWABLE USES.—”; and

(B) by inserting “and security” after “safety”.

**SEC. 6026. PROJECT REVIEW.**

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking “(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant” and inserting the following:

“(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309”;

(B) in paragraph (2)—

(i) by striking “(2)” and inserting the following:

“(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—”; and

(ii) by striking “is consistent with” and inserting “meets the requirements of”;

(C) in paragraph (3)—

(i) by striking “(3)” and inserting the following:

“(3) RECORD OF DECISION.—”;

(ii) by striking “of construction”; and

(iii) by adding before the period at the end the following: “if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309”; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

**SEC. 6027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.**

(a) IN GENERAL.—Section 5329 is amended to read as follows:

**“§ 5329. Investigation of safety hazards and security risks**

“(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

“(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.”

“(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.”

“(d) PUBLIC TRANSPORTATION SECURITY.—“(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.”

“(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

“(A) establish national security standards for public transportation agencies;

“(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

“(C) create a method of coordination with public transportation agencies on security matters; and

“(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows: “5329. Investigation of safety hazards and security risks.”.

#### SEC. 6028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

“§ 5330. Withholding amounts for noncompliance with State safety oversight requirements”;

(2) by amending subsection (a) to read as follows:

“(a) APPLICATION.—This section shall only apply to—

“(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

“(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.”;

(3) in subsection (d), by striking “affected States” and inserting the following: “affected States—

“(1) shall ensure uniform safety standards and enforcement; or

“(2)”;

(4) in subsection (f), by striking “Not later than December 18, 1992, the” and inserting “The”.

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows: “5330. Withholding amounts for noncompliance with State safety oversight requirements.”.

#### SEC. 6029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking “mass” each place it appears and inserting “public”;

(2) in subsection (a)(5), by inserting “controlling,” after “operating”;

(3) in subsection (c)(5), by striking “5302(a)(7) of title 49, United States Code,” and inserting “5302(a) of title 49,”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

“1993. Terrorist attacks and other acts of violence against public transportation systems.”.

#### SEC. 6030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: “or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency”;

(2) in subsection (f), by striking paragraph (3).

#### SEC. 6031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting “: *Provided*, That—

“(A) the protective period shall not exceed 4 years; and

“(B) the separation allowance shall not exceed 12 months.”;

(2) by adding at the end the following:

“(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

“(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

“(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.”.

#### SEC. 6032. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “5309–5311 of this title” and all that follows and inserting “5309 through 5311”;

(B) in paragraph (9), by striking “and” at the end;

(C) in paragraph (10), by striking the period at the end and inserting “; and”;

(D) by inserting at the end the following:

“(11) issue regulations as necessary to carry out the purposes of this chapter.”;

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

“(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

“(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

“(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

“(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

“(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.”; and

(4) in subsection (j)(1), as redesignated, by striking “carry out section 5312(a) and (b)(1) of this title” and inserting “advise and assist the Secretary in carrying out section 5312(a)”.

#### SEC. 6033. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking “(1)”;

(B) in paragraph (2), by striking “(2) The Secretary may make a grant under section 5307 of this title” and inserting the following:

“(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311”.

#### SEC. 6034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsections (d), (h), and (k);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by redesignating subsection (i) and (j) as subsection (h) and (i) respectively;

(4) by adding before subsection (b), as redesignated, the following:

“(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

“(1) there shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, \$35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

“(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d)”;

(5) in subsection (b), as redesignated—

(A) by striking “Of the amount made available or appropriated under section 5338(a) of this title” and inserting “Of the amount apportioned under subsection (a)(3)”;

(B) in paragraph (2), by striking “subsections (b) and (c) of this section” and inserting “subsections (c) and (d)”;

(6) in subsection (c)(2), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2)”;

(7) in subsection (d), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2)”;

(8) in subsection (e)(1), by striking “subsections (a) and (h)(2) of section 5338 of this title” and inserting “subsections (a) and (b) of section 5338”;

(9) in subsection (g), by striking “subsection (a)(1) of this section” each place it appears and inserting “subsection (b)(1)”;

and

(10) by adding at the end the following:

“(j) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

“(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

“(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

“(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

“(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

“(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

“(k) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

“(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

- “(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;
- “(ii) the optimal number and size of any incentive programs;
- “(iii) what types of systems should compete for various incentives;
- “(iv) how incentives should be distributed; and
- “(v) the likely effects of the incentive funding system.”.

**SEC. 6035. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.**

Section 5337 is amended—

- (1) in subsection (a), by striking “for each of fiscal years 1998 through 2003”; and
- (2) by striking “section 5336(b)(2)(A)” each place it appears and inserting “section 5336(c)(2)(A)”.

**SEC. 6036. AUTHORIZATIONS.**

Section 5338 is amended to read as follows:

**“§ 5338. Authorizations**

“(a) FISCAL YEAR 2005.—

“(1) FORMULA GRANTS.—

“(A) TRUST FUND.—For fiscal year 2005, \$3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$499,989,824 for fiscal year 2005 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

- “(i) \$4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;
- “(ii) \$6,894,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);
- “(iii) \$94,526,689 shall be available to provide transportation services to elderly indi-

viduals and individuals with disabilities under section 5310;

“(iv) \$173,040,330 shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(v) \$3,325,048,327 shall be available to provide financial assistance for urbanized areas under section 5307;

“(vi) \$49,600,000 shall be available to provide financial assistance for buses and bus facilities under section 5309; and

“(vii) \$345,996,704 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.”.

“(2) JOB ACCESS AND REVERSE COMMUTE.—

“(A) TRUST FUND.—For fiscal year 2005, \$108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

“(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated \$15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

“(3) CAPITAL PROGRAM GRANTS.—

“(A) TRUST FUND.—For fiscal year 2005, \$2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$414,014,176 for fiscal year 2005 to carry out section 5309.

“(4) PLANNING.—

“(A) TRUST FUND.—For fiscal year 2005, \$63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$9,052,000 for fiscal year 2005 to carry out section 5308.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

- “(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and
- “(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

“(5) RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2005, \$47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated \$6,820,000 for fiscal year 2005 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

“(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

- “(i) not less than \$3,968,000 shall be available to carry out programs of the National Transit Institute under section 5315;
- “(ii) not less than \$5,208,000 shall be available to carry out section 5311(b)(2);
- “(iii) not less than \$8,184,000 shall be available to carry out section 5313; and
- “(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

“(6) UNIVERSITY TRANSPORTATION RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2005, \$5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated \$744,000 for fiscal year 2005 to carry out sections 5505 and 5506.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

- “(i) \$1,984,000 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005;
- “(ii) \$1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and
- “(iii) \$1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (i).

“(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

“(7) ADMINISTRATION.—

“(A) TRUST FUND.—For fiscal year 2005, \$67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated \$9,672,000 for fiscal year 2005 to carry out section 5334.

“(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.”.

“(b) FORMULA GRANTS AND RESEARCH.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

- “(A) \$5,943,059,000 for fiscal year 2006;
- “(B) \$6,279,868,000 for fiscal year 2007;
- “(C) \$6,862,064,000 for fiscal year 2008; and
- “(D) \$7,476,967,000 for fiscal year 2009.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

- “(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;
- “(B) 1.75 percent shall be available to carry out section 5308;
- “(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

“(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

“(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

“(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

“(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

“(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than \$1,000,000 to carry out section 5315(a)(16);

“(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

“(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

“(H) \$25,000,000 shall be available for each of the fiscal years 2006 through 2009 to carry out section 5316;

“(I) there shall be available to carry out section 5335—

“(i) \$3,900,000 in fiscal year 2006;

“(ii) \$4,200,000 in fiscal year 2007;

“(iii) \$4,600,000 in fiscal year 2008; and

“(iv) \$5,000,000 in fiscal year 2009;

“(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

“(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

“(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

“(3) UNIVERSITY CENTERS PROGRAM.—

“(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), \$1,000,000 shall be available in each of the fiscal years 2006 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

“(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

“(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

“(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

“(A) \$796,977,000 for fiscal year 2006;

“(B) \$842,144,000 for fiscal year 2007;

“(C) \$920,218,000 for fiscal year 2008; and

“(D) \$1,002,678,000 for fiscal year 2009.

“(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

“(1) \$1,386,523,000 for fiscal year 2006;

“(2) \$1,465,100,000 for fiscal year 2007;

“(3) \$1,600,927,000 for fiscal year 2008; and

“(4) \$1,744,385,000 for fiscal year 2009.

“(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

“(1) \$82,086,000 for fiscal year 2006;

“(2) \$86,738,000 for fiscal year 2007;

“(3) \$94,779,000 for fiscal year 2008; and

“(4) \$103,273,000 for fiscal year 2009.

“(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1), (b)(4), or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

“(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

“(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.”.

**SEC. 6037. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.**

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

**“§ 5340. Apportionments based on growing States and high density State formula factors**

“(a) DEFINITION.—In this section, the term ‘State’ shall mean each of the 50 States of the United States.

“(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (d).

“(c) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned

to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

“(A) the total land area of the State (in square miles); multiplied by

“(B) 370; multiplied by

“(C)(i) the population of the State in urbanized areas; divided by

“(ii) the total population of the State.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (5)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

“5340. Apportionments based on growing States and high density States formula factors.”.

**SEC. 6038. JOB ACCESS AND REVERSE COMMUTE GRANTS.**

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

- (1) in subsection (b)—
- (A) in paragraph (1)—
- (i) by striking “means an individual” and inserting the following: “means—
- “(A) an individual”; and
- (ii) by striking the period at the end and inserting “; or

“(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located.”; and

(B) in paragraph (2), by striking “development of” each place it appears and inserting “development and provision of”;

(2) in subsection (i), by amending paragraph (2) to read as follows:

“(2) COORDINATION.—

“(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

“(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

“(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.”;

(3) by amending subsection (j) to read as follows:

“(j) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

“(2) SPECIAL WARRANTY.—

“(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

“(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate.”; and

(4) by striking subsections (k) and (l).

**SEC. 6039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

**“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.”**

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

“(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

“(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses; and

“(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses.”.

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended to read as follows:

“Sec. 3038. Over-the-road bus accessibility program.”.

**SEC. 6040. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.**

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

**“§ 5316. Alternative transportation in parks and public lands**

“(a) IN GENERAL.—

“(1) AUTHORIZATION.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America’s National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

“(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

“(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

“(b) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) ELIGIBLE AREA.—The term ‘eligible area’ means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

“(A) a unit of the National Park System;

“(B) a unit of the National Wildlife Refuge System;

“(C) a recreational area managed by the Bureau of Land Management; and

“(D) a recreation area managed by the Bureau of Reclamation.

“(2) FEDERAL LAND MANAGEMENT AGENCY.—The term ‘Federal land management agency’ means a Federal agency that manages an eligible area.

“(3) ALTERNATIVE TRANSPORTATION.—The term ‘alternative transportation’ means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sight-seeing service.

“(4) QUALIFIED PARTICIPANT.—The term ‘qualified participant’ means—

“(A) a Federal land management agency; or

“(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

“(5) QUALIFIED PROJECT.—The term ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that—

“(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

“(B) involves—

“(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

“(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

“(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

“(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

“(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

“(F) is any other alternative transportation project that—

“(i) enhances the environment;

“(ii) prevents or mitigates an adverse impact on a natural resource;

“(iii) improves Federal land management agency resource management;

“(iv) improves visitor mobility and accessibility and the visitor experience;

“(v) reduces congestion and pollution (including noise pollution and visual pollution); or

“(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

“(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

“(1) technical assistance in alternative transportation;

“(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

“(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

“(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year



under section 5338(b)(2)(H) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

“(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

“(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(b)(2)(H) for any fiscal year.

“(e) PLANNING PROCESS.—In undertaking a qualified project under this section—

“(1) if the qualified participant is a Federal land management agency—

“(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

“(i) the metropolitan planning provisions under section 5303 of this title;

“(ii) the statewide planning provisions under section 5304 of this title; and

“(iii) the public participation requirements under section 5307(e); and

“(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

“(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

“(A) comply with the metropolitan planning provisions under section 5303 of this title;

“(B) comply with the statewide planning provisions under section 5304 of this title;

“(C) comply with the public participation requirements under section 5307(e) of this title; and

“(D) consult with the appropriate Federal land management agency during the planning process.

“(f) COST SHARING.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

“(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

“(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

“(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

“(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

“(D) the clear and direct benefit to the qualified participant; and

“(E) any other matters that the Secretary considers appropriate to carry out this section.

“(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

“(g) SELECTION OF QUALIFIED PROJECTS.—

“(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

“(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

“(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

“(B) the location of the qualified project, to ensure that the selected qualified projects—

“(i) are geographically diverse nationwide; and

“(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

“(C) the size of the qualified project, to ensure that there is a balanced distribution;

“(D) the historical and cultural significance of a qualified project;

“(E) safety;

“(F) the extent to which the qualified project would—

“(i) enhance livable communities;

“(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

“(iii) reduce congestion; and

“(iv) improve the mobility of people in the most efficient manner; and

“(G) any other matters that the Secretary considers appropriate to carry out this section, including—

“(i) visitation levels;

“(ii) the use of innovative financing or joint development strategies; and

“(iii) coordination with gateway communities.

“(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

“(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

“(A) the qualified participant applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

“(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

“(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

“(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

“(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

“(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than \$25,000,000—

“(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

“(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

“(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

“(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

“(A) conserve resources;

“(B) prevent or mitigate adverse environmental impact;

“(C) improve visitor mobility, accessibility, and enjoyment; and

“(D) reduce pollution (including noise pollution and visual pollution).

“(2) The Secretary may request and receive appropriate information from any source.

“(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

“(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

“(l) REPORTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

“(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).”

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

“5316. Alternative transportation in parks and public lands.”

#### SEC. 6041. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) \$7,646,336,000 for fiscal year 2005;

(2) \$8,208,645,000 for fiscal year 2006;

(3) \$8,673,850,000 for fiscal year 2007;

(4) \$9,477,988,000 for fiscal year 2008; and

(5) \$10,327,303,000 for fiscal year 2009.

**SEC. 6042. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2005 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2004 part V (118 Stat. 1154).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2005 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

**SEC. 6043. DISADVANTAGED BUSINESS ENTERPRISE.**

Section 1821(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall apply to all funds authorized or otherwise made available under this title.

**SA 574.** Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed by her to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.**

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens,

then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur, because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

**(c) TAX-EXEMPT FINANCING.—**

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term “real estate investment trust” has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term “non-operating class III railroad” has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term “State” includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation’s board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

**SA 575.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 21 \_\_\_\_ . TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.**

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 449) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking “Build an” and inserting “Build or integrate an”; and

(II) by striking “2,000,000” and inserting “2,500,000”; and

(ii) in the second sentence—

(I) by striking “300,000 and that” and inserting “300,000.”; and

(II) by inserting before the period at the end the following: “, and includes major transportation corridors serving that metropolitan area.”;

(B) in clause (ii), by striking “shared” and all that follows and inserting “reinvested in the intelligent transportation infrastructure system.”;

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking “July 1, 2002” and inserting “the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005”;

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

“(ii) The term ‘follow-on deployment areas’ means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Bir-

mingham, Boston, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.”;

(4) in subparagraph (F)—

(A) by striking “Of the amounts” and inserting the following:

“(i) THIS ACT.—Of the amounts”; and

(B) by adding at the end the following:

“(ii) SAFETEA.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph \$5,000,000 for each fiscal year.

“(iii) AVAILABILITY; NO REDUCTION OR SET-ASIDE.—Amounts made available by this subparagraph—

“(I) shall remain available until expended; and

“(II) shall not be subject to any reduction or setaside.”; and

(5) by adding at the end the following:

“(H) USE OF RIGHTS-OF-WAY.—

“(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest.

“(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—

“(I) to regulate highway safety; or

“(II) under sections 253 and 332(c)(7) of the Act of June 19, 1934 (47 U.S.C. 253, 332(c)(7)) (commonly known as the ‘Communications Act of 1934’).”.

(b) CONFORMING AMENDMENT.—Section 5204 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 453) is amended by striking subsection (k).

**SA 576.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of subchapter I of chapter 5 of title 23, United States Code (as amended by section 2101(a)), add the following:

**“§ 513. California University of Pennsylvania Urban Maglev Demonstration Project.**

The Secretary shall make available \$45,000,000 for the continuation of the California University of Pennsylvania Urban Maglev Demonstration Project.”.

In the analysis for chapter 5 of title 23, United States Code (as amended by section 2101(a)), at the end of the items relating to subchapter I, add the following:

“513. California University of Pennsylvania Urban Maglev Demonstration Project.”.

**SA 577.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which

was ordered to lie on the table; as follows:

In section 2001(a)(5), strike “\$40,188,679” and insert “\$50,188,679”.

In the analysis for chapter 5 of title 23, United States Code (as added by section 2101(a)), strike the item relating to section 512 and insert the following:

“512. University bridge research centers.

“513. Transportation analysis simulation system.

In chapter 5 of title 23, United States Code (as amended by section 2101(a)), redesignate section 512 as section 513.

In chapter 5 of title 23, United States Code (as amended by section 2101(a)), insert after section 511 the following:

**“§ 512. University bridge research centers**

“(a) IN GENERAL.—The Secretary shall establish and implement a university bridge research center program in accordance with this section.

“(b) PURPOSES.—The Secretary, in coordination with nonprofit institutions of higher learning, shall encourage and promote specific research on—

“(1) advanced highway bridge materials and systems for economical, rapid, and durable repair, replacement, and protection of highway bridges; and

“(2) technology to monitor and evaluate bridge damage and deterioration to significantly extend the useful life of highway bridges.

“(c) BRIDGE CENTERS.—The Secretary shall make grants to nonprofit institutions of higher learning to establish and operate university bridge research centers.

“(d) SELECTION OF GRANT RECIPIENTS.—

“(1) APPLICATIONS.—To be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

“(2) SELECTION CRITERIA.—

“(A) IN GENERAL.—Except as otherwise provided by subparagraph (B), the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of—

“(i) the demonstrated research and development resources available to the recipient to carry out this section;

“(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range bridge deterioration and structure problems;

“(iii) the demonstrated commitment by the recipient of at least \$200,000 in regularly budgeted institutional amounts each year to support ongoing bridge research and education programs;

“(iv) the demonstrated ability of the recipient to disseminate results of bridge transportation research and education programs through a statewide or regionwide program;

“(v) the demonstrated ability of the recipient to partner with other institutions that have highway bridge research expertise;

“(vi) the demonstrated ability of the recipient to conduct analysis, laboratory testing, and field verification of bridge design through a record of demonstration projects with State transportation departments and private, public and quasi-public bridge authorities;

“(vii) the demonstrated record of the recipient in transferring technology to practitioners;

“(viii) the demonstrated record of the recipient in testing full-scale bridge components in laboratory facilities and implementing results in design changes and field verification; and

“(ix) the strategic plan that the recipient proposes to carry out under the grant.

“(B) PREFERENCE.—Preference shall be given to nonprofit institutions of higher learning located in the 10 States with the worst deficiencies in highway bridges, as ranked by the 2002 Federal Highway Administration National Bridge Inventory.

“(e) ACTIVITIES.—A Federal Highway Administration university bridge transportation center that receives a grant under this section shall conduct—

“(1) basic and applied bridge research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in bridge longevity;

“(2) an education program that includes multidisciplinary course work and student participation in research; and

“(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, used, or otherwise applied.

“(f) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent.

“(2) NON-FEDERAL SHARE.—The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

“(g) PROGRAM COORDINATION.—

“(1) COORDINATION.—The Secretary shall—

“(A) coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section; and

“(B) establish a clearinghouse for dissemination of the results of the research.

“(2) ANNUAL REVIEW AND EVALUATION.—At least annually the Secretary shall review and evaluate programs carried out by grant recipients.

“(3) FUNDING LIMITATION.—The Secretary shall use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

“(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation for 2 years after the last day of the fiscal year for which the funds are made available.

“(i) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2005, 2006, 2007, 2008, and 2009, the Secretary shall make a grant of \$2,000,000 to each of 5 nonprofit institutions of higher education to conduct bridge transportation research.

**SA 578.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of section 1807, add the following new subsection:

(c) STEEL BRIDGE TESTING.—The Secretary shall make available \$10,000,000 to test steel bridges using a non-destructive technology capable of detecting growing cracks, including subsurface flaws as small as 0.01 inches in length or depth.

**SA 579.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

On page 216, after the matter preceding line 1, insert the following:

**SEC. 15 . HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.**

(a) IN GENERAL.—Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) in subsection (c), by adding at the end the following:

“(46) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route 30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 and on United States Route 422 to Interstate Route 80.”; and

(2) in subsection (e)(5)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E); and

(B) by inserting after subparagraph (A) the following:

“(B) INTERSTATE ROUTE 376.—

“(i) DESIGNATION OF INTERSTATE ROUTE 376.—

“(I) IN GENERAL.—The routes referred to in subsection (c)(46), except the portion of Pennsylvania Turnpike Route 60 and United States Route 422 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.

“(II) SIGNS.—The State of Pennsylvania shall—

“(aa) have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60); and

“(bb) erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.

“(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.

“(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(46) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376 under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.”.

**SA 580.** Mr. VOINOVICH (for himself, Mr. DEWINE, Mr. COLEMAN, Mr. DURBIN, Mr. OBAMA, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . COMPUTATION OF CERTAIN ESTIMATED TAX PAYMENTS.**

If the Secretary of Transportation takes into account fiscal year 2005 or any preceding fiscal year in computing the apportionment of funds pursuant to sections 104 and 105 of title 23, United States Code, for fiscal year 2005 or any subsequent fiscal year, the Secretary shall determine such apportionment by using the amount of estimated tax receipts that the Secretary estimates would have resulted had the amendments made by section 301 of the American Jobs Creation Act of 2004 taken effect at the beginning of the fiscal year which is so taken into account.

**SA 581.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

In section 144(f)(2)(A) of title 23, United States Code (as amended by section

1807(a)(4), strike "15 percent" and insert "20 nor more than 35 percent".

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE FOR BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. 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 April 26, 2005, at 10 a.m., to conduct a hearing on "An Update on Money Services Businesses Under Bank Secrecy and USA Patriot Regulation."

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Tuesday, April 26, 2005, at 10 a.m. on the nominations of Maria Cino to be the Deputy Secretary of Transportation, and Phyllis Scheinberg to be Assistant Secretary of Transportation for Budget.

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Tuesday, April 26, 2005, at 2:30 p.m. on the Transportation Security Administration's FY2006 Budget and pending nominations.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 26, at 10 a.m. in Room SD-366.

The purpose of the hearing is to receive testimony regarding the status of the Department of Energy's Nuclear Power 2010 Program.

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

##### COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of Tuesday, April 26, 2005, at 10 a.m., to hear testimony on "Proposals To Achieve Sustainable Solvency, With and Without Personal Accounts."

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 26, 2005 at 9:30 a.m. to hold a hearing on the Millennium Challenge Corporation.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Retirement Security and Aging, be authorized to hold a hearing during the session of the Senate on Tuesday, April 26, 2005 at 10 a.m. in SD-430.

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

##### COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "A Bill to create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for other Purposes" on Tuesday, April 26, 2005 at 9:30 a.m., in Russell Senate Office Building, Room 325.

Panel I: The Honorable Judge Becker.

Panel II: The Honorable John Engler, National Association of Manufacturing, Washington, DC.; Mr. Craig Berrington, General Counsel, American Insurance Association, Washington, DC.; Ms. Peg Seminario, Director, AFL-CIO, Washington, DC.; Ms. Carol Morgan, President and General Counsel, National Service Industries, Inc.; Doraville, GA; Mr. Hershel W. Gober, National Legislative Director, Military Order of the Purple Heart, McLean, VA; Dr. Francine Rabinovitz, Hamilton, Rabinovitz & Alschuler, Carmel, CA; Mr. Mark A. Peterson, President, Legal Analysis Systems, Inc., Thousand Oaks, CA; Prof. Eric D. Green, Boston University Law School, Boston, MA.

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

##### COMMITTEE ON VETERANS' AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, April 26, 2005, to mark up the nomination of Mr. Jonathan B. Perlin to be Under Secretary for Health, Department of Veterans' Affairs.

The meeting will take place in room S 216 (the President's Room) of the Capitol at 11:45 a.m.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 26, 2005 at 2:30 p.m., to hold a briefing.

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

##### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and For-

ests be authorized to meet during the session of the Senate on Tuesday, April 26, 2005 at 2:30 p.m., in room SD-366.

The purpose of the hearing is to review the preparedness of the Departments of Agriculture and the Interior for the 2005 Wildfire Season, including agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies' ability to deal with the upcoming fire season.

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

#### PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that the privilege of the floor be afforded Mr. Richard Steinmann, a detailee from the Federal Transit Administration, for the duration of the consideration of the surface transportation reauthorization bill.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that the following staff members of the Joint Committee on Taxation on a list that I send to the desk be given the privilege of the floor for the duration of the deliberation of the Highway Reauthorization and Excise Simplification Act of 2005, provided that no more than four from the list occupy the floor at any given time.

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

The list is as follows:

Yin, George K., Barthold, Thomas A., Bloyer, John, Clay, Gordon M., Corcoran, Sean M., Flax, Nikole C., Hirsch, Harold E., Lenter, David L., Matthews, Laurie A., McMullen, Debra L., Means, Kristine M., Nega, Joseph W., Rock, Cecily W., Thomas, Melvin C., Wielobob, Allison E., Schmitt, Bernard A., Beeman, E. Ray, Bornholdt, Gary W., Colinvauz, Roger, Fisher, Tara Z., Fontenot, Gray C., James, Deirdre, Littman, Allen J., McDermott, Patricia, McMullen, Neval E., Navratil, John F., Noren, David G., Smith, Carolyn E., Way, Kashi.

#### EXPRESSING SENSE OF CONGRESS ON WORLD INTELLECTUAL PROPERTY DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 28, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res 28) expressing the sense of Congress on World Intellectual Property Day regarding the importance of protecting intellectual property rights globally.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LUGAR. Mr. President, today, on World Intellectual Property Day, I rise in support of a resolution I have submitted recognizing the importance of

protecting intellectual property. One of the key benefits of protecting intellectual property is preserving innovation. Only with enforcement of protections will there be incentives for inventors to create and protect their innovations. As the sharing of goods and ideas transcends national boundaries, it is vital that these protections be able to accompany the ideas that they protect globally.

Although most of our trading partners have national domestic laws protecting intellectual property piracy and are even parties to agreements which contain intellectual property protections, piracy continues largely due to lack of enforcement. Theft of intellectual property results in competitive disadvantages to U.S. industries and job loss for American workers.

Counterfeiting and digital piracy have increased dramatically in recent years. In addition to the direct impact on the sales and profits of the subject industries, there is also significant harm and deception to consumers who believe they are purchasing legal and legitimate goods. Piracy and counterfeiting of copyrighted products in digital and other formats have grown to an enormous scale because these illegal activities offer a high rate of return with minimal risk to the criminal producing element. This element can conduct piracy with little capital investment, and in many countries, little chance of apprehension. Even if apprehended, the penalties may be so minor that they offer no deterrent.

There are various agreements between nations implemented at different levels for the protection of intellectual property. One of these is part of the World Trade Organization, WTO, charter, the Trade Related Aspects of Intellectual Property Rights, TRIPS. Key TRIPS provisions require all WTO members to provide certain minimum standards of protection for patents, copyrights, trademarks, trade secrets, geographical indicators, and other forms of intellectual property. There is also a requirement to provide effective enforcement of each nation's domestic intellectual property regulations.

Also currently in force are two copyright treaties of the World Intellectual Property Organization: the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, which entered into force in 2002. These treaties help raise the minimum standards of intellectual property protection around the world, particularly with respect to internet-based delivery of copyrighted works. As with the TRIPS agreement, enforcement of obligations by member countries remains the issue.

This resolution focuses on two nations, China and Russia, with which we have significant trading relationships, yet, are still not offering the necessary enforcement of protections. China has become a leading exporter of counterfeit and pirated goods to the world. It is, therefore, critical that we address

the issue of protection and enforcement in China. At the April 2004 meeting of the Joint Commission on Commerce and Trade, JCCT, the Chinese Government indicated that it would undertake a series of actions to significantly reduce infringement throughout the country. Piracy rates in China have remained at extremely high levels for the past decade, despite numerous actions by the Chinese Government such as the seizure and destruction of millions of pirated products, often via highly publicized steamrollings of counterfeited discs. As a fellow member of the WTO, we must ensure that China fulfills its commitments to enforce intellectual property protections under the rules of the WTO.

Piracy in Russia continues to be a growing problem. Only a few pirate optical disc factories existed in Russia in the late 1990s. Reports indicate that there are now over 30 such plants producing pirated products in Russia, ruining the Russian market for American right-holders and substantially undermining other markets in Europe as well. The Russian Government has made many promises to solve this problem, but meaningful results have yet to occur. Russia recognizes that its domestic laws and enforcement measures still do not meet TRIPS requirements; however, the required legislation has not been implemented. We should encourage the Government of Russia to act promptly and implement these measures so that it can fully comply with the rules of the WTO.

The problem of protecting intellectual property is evident. Going forward, our focus should be on the solutions. What enforcement methods should be utilized that have not been thus far? Should our international agreements and treaties with our trading partners be better utilized to ensure enforcement of intellectual property rights laws? Some progress has been made in these areas, yet there is much more ground to cover. I encourage the administration to insure that our trading partners fulfill their commitments and agreements to abide by global intellectual property rules.

I ask unanimous consent that relevant material be printed in the RECORD.

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

[From the International Intellectual Property Alliance, Apr. 26, 2005]

STATEMENT OF THE INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE CELEBRATING WORLD INTELLECTUAL PROPERTY DAY

WASHINGTON, DC.—The International Intellectual Property Alliance (IIPA), a coalition of six trade associations representing 1,300 U.S.-based copyright companies, today celebrates 2005 World Intellectual Property Day. Eric H. Smith, President of IIPA, issued the following statement:

“The theme for 2005's World Intellectual Property Day is ‘Think, Imagine, Create.’ This message from the Director General of the World Intellectual Property Organization (WIPO), Kamil Idris, is directed at the

world's young people to build awareness about the importance of creativity—and the protection of the intellectual property that supports that creativity—to the daily lives of every global citizen. Without providing this protection, many of the great cultural and technological assets that we now take for granted would never have been available to us to improve our lives. Strong protection and enforcement of the world's laws that nurture the creativity embodied in intellectual property are all too often taken for granted or viewed by a few as no longer necessary. We too often forget the important cultural and economic benefits, jobs, contributions to GDP and tax revenues that are dependent on a strong intellectual property system.

“U.S. creators have benefited significantly from a strong global system of protection enshrined in treaties and conventions to which virtually all the world's nations belong. Yet weak laws and inadequate enforcement of those laws continue to plague all those individuals and companies that contribute to this great global creative and technological explosion.

“Today, Senators Lugar and Baucus introduced a Sense of the Congress Resolution, celebrating World Intellectual Property Day, and highlighting the massive damage done—over \$4 billion just to U.S. creators of copyright products alone—to global creativity by just two countries, China and Russia, through their failure to abide by internationally-agreed standards of protection and enforcement. The message to these countries is clear: they are cheating themselves by failing to take effective action to prevent the creative works of their own citizens, U.S. citizens and those of other countries, from blatant theft. IIPA members join with the sponsors of this Resolution to call upon these governments to take earnest measures to halt this theft and upon the U.S. government to use all the tools provided by Congress to see that these countries take effective action to prevent pirates from stealing intellectual property with impunity. Economic and cultural development is increasingly dependent on the creation and protection of intellectual property of all kinds. The resolution hits the mark in targeting two of the world's worst offenders of intellectual property rights.”

[From the Association of American Publishers News]

PUBLISHERS APPLAUD SENATE RESOLUTION ON SAFEGUARDING INTELLECTUAL PROPERTY WORLDWIDE

WASHINGTON, DC, April 26, 2005.—The U.S. publishing industry enthusiastically welcomed today's introduction in the Senate of a bipartisan Concurrent Resolution stressing the importance of protecting intellectual property rights around the world. The Association of American Publishers (AAP) expressed special thanks to Senator Richard Lugar (R-IN), Chairman of the Foreign Relations Committee, and Senator Max Baucus (D-MT), Ranking Member of the Finance Committee, who joined in sponsoring the resolution to mark the observance of World Intellectual Property Day.

Noting that the theft of intellectual property hurts the U.S. economy and costs American jobs, and citing deep concern over the failure of many U.S. trading partners to fulfill obligations to protect intellectual property, the resolution is particularly critical of China and Russia, where piracy threatens the very existence of legitimate markets for copyright products. The resolution calls on the Administration to use “all available tools provided by Congress,” and the leverage provided by bi-lateral and multi-lateral

trade agreements (including, where appropriate, WTO commitments) as well as terms regulating benefits such as the Generalized System of Preferences (GSP) program, to protect the intellectual property rights of American businesses.

AAP President and CEO Pat Schroeder congratulated Senators Lugar and Baucus for focusing attention on the serious matter of international piracy. "Chinese pirates are decimating markets for legitimate commercial best sellers, academic arid professional works and English language learning materials. Russia leads its region in consumption of pirated books in both English and translation, and the impact on American publishers will only deepen as demand for English language materials grows in the region. Piracy cost American publishers an estimated \$50 million last year in China, and \$42 million in Russia, and the situation is worsening with the growth of the Internet as a distribution channel for pirated works," Mrs. Schroeder said. "In marking World Intellectual Property Day, this strong statement of Congress' commitment to protect American creativity is very welcome."

The Association of American Publishers is the national trade association of the U.S. book publishing industry. AAP's approximately 300 members include most of the major commercial book publishers in the United States, as well as smaller and non-profit publishers, university presses and scholarly societies. The protection of intellectual property rights in all media, the defense of intellectual freedom, and the promotion of reading and literacy are among the Association's primary concerns.

[From the Motion Picture Association of America]

MPPA CHIEF PRAISES WORLD INTELLECTUAL PROPERTY DAY RESOLUTION

WASHINGTON, DC.—Motion Picture Association President and CEO Dan Glickman today praised a concurrent resolution introduced by Senator Richard Lugar (R-IN) and Senator Max Baucus (D-MT) that expressed the sense of the Congress stressing the importance of protecting intellectual property rights, particularly in China and Russia where piracy and counterfeiting are rampant.

"I thank Senator Lugar and Senator Baucus for this resolution celebrating World Intellectual Property Day, and more importantly, for taking a leadership role in fighting for intellectual property rights across the globe."

"Of course, my special concern is protecting the magic of the movies. Our industry loses \$3.5 million each year through hard goods piracy, and billions more in internet piracy. If the black market is allowed to flourish, and if thieves are allowed to continue to steal our products, it makes it more and more difficult to make the movies that entertain people the world over."

"But this isn't just about the movies. As the resolution itself says, the American economy depends increasingly on the work of authors, inventors, programmers and many others who create intellectual products of high value. In fact, close to twelve million Americans are employed by the copyright industries. For America, intellectual property means jobs."

"But intellectual property is important for the rest of the world as well. Enforcing intellectual property laws in China and in Russia will only help these economies prosper in the long run." "I applaud this bold resolution and I thank both Senator Lugar and Senator Baucus for introducing it today."

UNIVERSAL MUSIC GROUP,

*Santa Monica, CA, April 25, 2005.*

Hon. RICHARD G. LUGAR,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR LUGAR: I am the President and Chief Operating Officer of Universal Music Group, the world's largest music company. I write to tell you how much my company and I appreciate Congress' commitment to the fight against piracy. We recognize that you and Senator Baucus have been particular champions of this cause for some time now. The Resolution that you and Senator Baucus are introducing is another indication of your commitment to the many Americans who earn their livelihoods by bringing new artists and sounds to consumers around the globe.

It is clear that innovation and the strong protection of intellectual property laws will be vital to America's economic future. The United States Government must do all that it can to ensure that our trading partners vigorously enforce the treaties and other commitments they make to the United States, and it is our hope that your Senate colleagues will join you in sending that message by supporting the Lugar-Baucus Resolution.

Very truly yours,

ZACH HOROWITZ,  
President and COO.

[From the Recording Industry Association of America, April 26, 2005]

STATEMENT ON WORLD INTELLECTUAL PROPERTY DAY

On behalf of America's music community, we wish to thank Chairman Lugar and Senator Baucus for the resolution that they have jointly introduced today highlighting the need for greater vigilance in the fight against piracy in global markets. In particular, there is an urgent need to direct attention to markets like Russia and China, which remain essentially closed to U.S. businesses due to stifling piracy rates. As the Senators aptly mention, piracy in these markets and elsewhere around the world "is open, notorious and permitted to operate without meaningful hindrance from the government."

There may be no single economic issue that has a greater bearing on American competitiveness in the 21st century than the protection of intellectual property. As such, it is imperative that we not shy away from demands that our trading partners meet their obligations under international agreements as well as the criteria for participating in U.S. trade programs affording unilaterally extended trade benefits. We simply cannot enter into political arrangements that fail to protect our greatest economic assets.

On the occasion of World Intellectual Property Day, we wish to call upon the Russian and Chinese governments to reform their approach to this critical issue and to begin to seriously address the rampant piracy that is so endemic in their societies today. It is of utmost importance that the Sino-U.S. and U.S.-Russia relationships are built upon a mutual understanding of shared obligations and a strong commitment to embracing and enforcing the rule of law. While we very much want to see Russia join the community of nations bound to one another in the World Trade Organization, negotiations cannot conclude without marked improvement and a commitment on the part of the Russian government to the protection of intellectual property.

We also wish to express our great concern about the current state of affairs in China and the apparent determination of the Chinese government to limit the ability of U.S.

companies to meaningfully engage in the Chinese market. At present, the Chinese government continues to maintain significant barriers to entry for some of our nation's most competitive industries, particularly in the area of music and film production and distribution. In addition, the government continues to permit Chinese pirate businesses to be built on the back of American creativity. Without question, these practices must change if China wishes to maintain a secure and stable relationship with the United States.

We appreciate the continued attention of our nation's political leaders to this pressing issue—on both the occasion of World Intellectual Property Day and beyond. We look forward to working with Congress and the Administration to help produce—and if necessary, demand—effective changes to create a more level playing field and a global environment that values and respects American intellectual property.

MITCH BAINWOL,  
Chairman and CEO.

Mr. BAUCUS. Mr. President, the theme of this year's World Intellectual Property Day, which we commemorate today, is "Think, Imagine, Create."

Think, imagine, create, these simple words are at the center of what makes America great and what continues to drive our progress. American thought produced our Constitution and our system of government. American imagination put a person on the moon. And American creativity has made U.S. culture the envy of the world.

It is astounding how important intellectual property has become in our everyday life. It is even more astounding how much we take human creativity and intellectual property for granted. Just think about it for a moment and imagine what a world would be like without intellectual property rights.

Without copyrights, who would want to write the books we read, produce the movies we watch, or compose the music that fills our ears?

Without trademarks, who would want to invest the enormous time, energy, and resources required to develop a brand name synonymous with quality and reliability?

And without patents, who would have the incentive to innovate and produce inventions that change our world and save our lives?

Intellectual property rights are not just some abstract legal concept the sole province of lawyers and judges. They are an essential motor of our economy.

Look at the copyright industry. These are the folks who produce newspapers, books, movies, computer software, and radio/TV broadcasting. This industry alone accounts for 12 percent of our gross domestic product. That's \$1.25 trillion.

If these numbers don't impress, then let's look at the impact the copyright industries have on U.S. jobs. They alone employ roughly 11.5 million workers. That is nearly 8.5 percent of total U.S. employment. Believe it or not, that number approaches the level of employment in the health care sector or the entire manufacturing sector. And between 1997 and 2002, the rate of

job growth in the copyright industry exceeded that of the U.S. economy as a whole.

That is why protecting intellectual property rights worldwide is critical. It is not just a concern for the overall health of the U.S. economy. And it is not just a concern of this or that company. It is a concern of each and every worker that the intellectual property industries employ. And it is a concern of each and every one of us that enjoys going to see the latest movie, likes wearing a hip new pair of Nike shoes, or needs the most innovative life saving drug.

Unfortunately, while we have a robust IPR regime here in America, some of our trading partners do not. In certain countries, IPR theft is rampant.

China is probably the most notorious example. USTR reports that counterfeiting and piracy in China are at "epidemic levels and cause serious harm to U.S. businesses in virtually every sector of the economy." In fact, as USTR pointed out, one U.S. trade association claims that counterfeiting and piracy in China exceeds 90 percent. Estimates of the value of counterfeit and pirated goods in China are between \$19 billion and \$24 billion in 2001. That translates into losses of \$2.5 to \$3.8 billion to U.S. industry.

Russia is also a serial IPR violator. The scale of intellectual property rights infringement there is vast and growing. Russia's legal framework has huge gaps, and the enforcement of existing laws is lax. This has real costs. Estimated losses to U.S. copyright industries due to piracy of films, videos, sound recordings, books, and computer software continue to exceed \$1 billion annually. Over 80 percent of all DVDs on the Russian market are estimated to be pirated. Pirated music is estimated at 66 percent of sales, and software piracy is estimated at about 88 percent.

IPR violations in Brazil are also very troubling, particularly given that Brazil is both a WTO member and receives benefits from the United States under the Generalized System of Preferences. USTR reports that estimated losses in Brazil due to piracy of copyrighted materials totaled over \$930 million in 2004 alone. An estimated 75 percent of audiocassettes sold in Brazil are pirated.

These violations run counter to the entire spirit and purpose of World Intellectual Property Day. Rather than foster an environment that encourages thought, imagination, and creativity, IPR violations in China, Russia, Brazil, and other countries stifle creativity and innovation. They send the chilling message that the short-term profit of pirates, counterfeiters, and other IPR thieves matter more than the long term gains of society.

We need to crack down on countries that fail to protect and enforce intellectual property rights. We should use all tools at our disposal to address barriers to thought, imagination, and creativity.

In my view, we are long overdue in initiating a WTO case with China for its failure to comply with its obligations under the WTO's TRIPS agreement, particularly in the area of copyrights.

In my view, we should not give a green light to Russia's bid to join the WTO until Russia makes visible and sustained improvements to its legal regime as well as a demonstrable commitment to long-term enforcement.

And in my view, we should not continue to give countries with serious intellectual property deficiencies, like Russia and Brazil, GSP benefits until they clean up their act.

That is why I am today cosponsoring with Senator LUGAR a sense-of-the-Senate resolution on the importance of protecting intellectual property. Among other things, this resolution urges the administration to use all effective remedies to address the lack of intellectual property protection. It also urges the administration to take action to ensure that China, Russia, and our other trading partners comply with their international trade obligations.

Think, imagine, create, that is the theme of this year's World Intellectual Property Day. I hope that next year we can celebrate an improved global environment that truly fosters these important aspirations.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 28) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 28

Whereas protection of intellectual property is critical to our nation's economic competitiveness, cultural diversity, health and scientific development;

Whereas the United States economy depends increasingly on the work of authors, artists, inventors, programmers, and many others who create intellectual products of high value;

Whereas theft of intellectual property results in competitive disadvantages to United States industries and job losses for American workers, and for the United States economy as a whole;

Whereas the copyright industries employ approximately 11,500,000 workers or 8.41 percent of total employment in the United States, a number that approaches the levels of employment in the health care and social assistance sector (15,300,000 employees) and the entire manufacturing sector (14,500,000 workers in 21 manufacturing industries);

Whereas there is great concern about the failure of many of our trading partners to live up to their international obligations in the area of intellectual property protection;

Whereas counterfeiting of copyrighted products in digital and other formats, as well as counterfeiting of all types of trademarked products, has grown to an enormous scale;

Whereas many of our trading partners, in particular Russia and China, have laws in

place to prevent piracy and counterfeiting, but are failing to enforce the laws;

Whereas Russia and China alone are responsible for over \$4,000,000,000 in losses a year to United States industries due to piracy;

Whereas piracy in Russia and China is open, notorious, and permitted to operate without meaningful hindrance from the governments of those countries;

Whereas China should be encouraged to meet its intellectual property protection obligations as a member of the World Trade Organization (WTO);

Whereas Russia should be encouraged to explore means to provide effective piracy protection enabling compliance with the rules set forth by the WTO;

Whereas the United States Government must convey to these countries that failure to act will have political and economic consequences for relationships with the United States; and

Whereas Congress has enacted legislation regarding the protection of intellectual property, including measures which direct the Administration to ensure countries that fail to provide adequate and effective protection for intellectual property: Now, therefore, be it

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

(1) the Administration should utilize effective remedies and solutions in addressing the lack of intellectual property protection in China and Russia, using all available tools provided by Congress;

(2) the Administration should ensure that any country that enjoys benefits under the Generalized System of Preferences (GSP) program, such as Russia, lives up to its obligations to provide adequate and effective protection for intellectual property rights, or lose its eligibility to participate in trade preference programs;

(3) the Administration should ensure that action is taken against any country with which the United States shares mutual commitments under the WTO, such as China, when the country fails to live up to its WTO commitments;

(4) the Administration should urge Russia to promote measures to enforce intellectual property protection which will enable compliance with the intellectual property commitments required by the WTO; and

(5) the President should take any additional action the President considers appropriate to protect the intellectual property rights of United States businesses.

#### COMMENDING UNIVERSITY OF MINNESOTA WOMEN'S ICE HOCKEY TEAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 125, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 125) commending the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004-2005 National Collegiate Athletic Association Division I Women's Hockey Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed

to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 125) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 125

Whereas, on Sunday, March 27, 2005, the University of Minnesota Golden Gophers won the National Collegiate Athletic Association (NCAA) Division I Women's Hockey Championship for the second straight year;

Whereas the University of Minnesota Golden Gophers defeated Harvard University in the championship game by a score of 4 to 3, and defeated Dartmouth College by a score of 7 to 2 in the semifinals;

Whereas, during the 2004-2005 season, the Golden Gophers won an outstanding 36 out of 40 games;

Whereas Ms. Krissy Wendell was honored with the prestigious Patty Kazmaier Award, which is presented annually to the Nation's most outstanding women's collegiate hockey player;

Whereas Ms. Natalie Darwitz, Ms. Lyndsay Wall, and Ms. Krissy Wendell were selected for the 2004-2005 NCAA All-Tournament Team, and Ms. Darwitz was named the tournament's Most Valuable Player;

Whereas Ms. Lyndsay Wall, Ms. Krissy Wendell, and Ms. Natalie Darwitz were named to the CCM Women's University Division I Ice Hockey All-American First Team, and Ms. Jody Horak was named to the CCM Women's University Division I Ice Hockey All-American Second Team;

Whereas the team's seniors—Ms. Jody Horak, Ms. Brenda Reinen, Ms. Kelly Stephens, Ms. Noelle Sutton, and Ms. Stacy Troumbly—made tremendous contributions to the University of Minnesota Golden Gophers women's ice hockey program throughout their collegiate careers;

Whereas Ms. Ashley Albrecht, Ms. Chelsey Brodt, Ms. Natalie Darwitz, Ms. Whitney Graft, Ms. Jody Horak, Ms. Krista Johnson, Ms. Natalie Lammé, Ms. Erica McKenzie, Ms. Anya Miller, Ms. Andrea Nichols, Ms. Liz

Palkie, Ms. Jenelle Philipczyk, Ms. Brenda Reinen, Ms. Bobbi Ross, Ms. Allie Sanchez, Ms. Maggie Souba, Ms. Kelly Stephens, Ms. Noelle Sutton, Ms. Stacy Troumbly, Ms. Becky Wacker, Ms. Lyndsay Wall, and Ms. Krissy Wendell demonstrated exceptional teamwork, selfless team spirit, and admirable sportswomanship throughout the season;

Whereas the University of Minnesota Golden Gophers women's ice hockey team Head Coach Laura Halldorson and Assistant Coaches Brad Frost, Charlie Burggraf, and Jeff Moen provided outstanding leadership and coaching to mold all of the talented young women into a championship team: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004-2005 National Collegiate Athletic Association's Division I Women's Ice Hockey Championship;

(2) recognizes the outstanding achievements of the team's players, coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the president of the University of Minnesota.

ORDERS FOR WEDNESDAY,

APRIL 27, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, April 27. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business for up to 120 minutes, with the first 30 minutes under the control of the majority leader or his designee, the next 60 minutes under the control of Senator BIDEN or his designee, and the final 30 minutes

under the control of the majority leader or his designee; provided that following morning business the Senate resume consideration of H.R. 3, the highway bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow following morning business, the Senate will resume consideration of the highway bill. We will continue the amending process tomorrow. The chairman and ranking member will be here to work through amendments that are offered. Rollcall votes are expected throughout the day in relation to the amendments.

I also remind my colleagues that we have several other important matters to address before adjourning for next week's recess. We hope to receive conference reports to both the budget resolution and supplemental appropriations bill. In addition, several nominations are available for floor consideration, and we expect to move forward with those this week as well.

Again, we have a lot of work to do this week. Senators should expect busy days with rollcall votes throughout the week.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:34 p.m., adjourned until Wednesday, April 27, 2005, at 9:30 a.m.



## EXTENSIONS OF REMARKS

HONORING LEON J. SYLVESTER  
ON THE OCCASION OF HIS RE-  
TIREMENT

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join family, friends, community leaders, and colleagues in extending my sincere thanks and appreciation to Leon J. Sylvester as he celebrates his retirement after 43 years of dedicated service as an educator and administrator in the Shelton Public School System.

I have often spoken of our Nation's need for talented, creative educators ready to help our children learn and grow. Leon Sylvester has been just that kind of educator and administrator. In a career that has spanned five decades, Mr. Sylvester has involved himself in the education of young people at nearly every level. The Shelton community—especially its young people—has benefited from his unparalleled service.

Beginning his career as an elementary school teacher, Mr. Sylvester also served as a Social Studies teacher and Guidance Counselor before becoming the Director of Career, Vocational and Educational Training. In each of these positions, he helped to prepare young people for their futures by providing them with the fundamental tools they would need to succeed. He spent the first three decades of his career developing a distinguished reputation as an innovative educator and progressive administrator, which resulted in his elevation to Superintendent of Schools.

In his 14 years as Superintendent of Schools, Mr. Sylvester's leadership has led to significant improvements in both the physical school buildings as well as the programs offered by the school system. He founded the Student Mentoring Program and participates as a mentor, instituted the Alternative Education Program, and began an early reading intervention program for at risk students in the primary grades. During his tenure he also established the long range school facilities and capital improvement plan, oversaw the addition of media centers in Shelton's elementary schools, as well as the construction of a new intermediate school. His many contributions have created an enriched learning environment for all of Shelton's children—a legacy that will continue to make a difference in the lives of students for years to come.

In addition to his years of service to the Shelton Public School system, Mr. Sylvester has also been deeply involved in the community. He has held a seat on the City's Planning and Zoning Commission for nearly 20 years, serving as Chair for 6 years. He has had an integral role as a corporator for such organizations as the Hewitt Management Corporation, the Birmingham Group, Griffin Hospital, and the Shelton Boys & Girls Club—all organizations that have had a positive impact on the

community. He has also served on the Board of Directors for the Valley Instructional Network for Education, as the Education Chair for the Valley United Way, and has been involved with the Valley Substance Abuse Action Council. Through all of these efforts, Mr. Sylvester has demonstrated a unique and consummate dedication to public service. I have no doubt that he will continue in these efforts even after his retirement.

Educator, administrator, advocate, and community leader, Leon Sylvester has dedicated a lifetime of commitment to the City of Shelton and its residents. He has left an indelible mark—a model of all that a community member should be and an example to which we should all aspire. I am proud to rise today to join his wife, Barbara, children, grandchildren, family, friends, and colleagues in congratulating Leon J. Sylvester as he celebrates his retirement. My very best wishes for many more years of health and happiness.

TRIBUTE TO PERCY GREEN II,  
CIVIL AND HUMAN RIGHTS AC-  
TIVIST

**HON. WM. LACY CLAY**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Percy Green II who was among those outstanding Americans recently celebrated in the "Voices of Civil Rights" exhibit at the Library of Congress. It featured oral histories and photographs taken during the Voices of Civil Rights bus tour, which began in Washington, DC, on August 3, 2004. This 70-day tour through 22 states and 30 cities followed part of the route of the 1961 Freedom Rides to Jackson, Mississippi.

Mr. Green is a great St. Louisan who has earned a place in our Nation's history for his role in the fight to end racial discrimination. In an interview with the St. Louis Post-Dispatch, Mr. Green said: "I realized that poor people and less fortunate people were not poor and less fortunate by choice. When I was able to realize there was such a thing that was called the white power structure, and it had a face and it was tangible, then of course, that was when I felt that it needed to be targeted."

In the early 1960s, Mr. Green was one of the few working class members of CORE, the Congress of Racial Equality. He was then an aircraft electrician—which he learned by correspondence—at the McDonnell-Douglas Corporation. He took it upon himself to help other African Americans find decent jobs and so he founded the Action Council to Improve Opportunities for Negroes (ACTION). ACTION targeted local St. Louis corporations and government bodies to expose job discrimination and demand better jobs for minorities. In numerous acts of civil disobedience they marched, sat-in, protested, disrupted and lobbied for a fair share of America's promise. Many St.

Louisans still remember that organization's first public demonstration when Mr. Green and a white man climbed up a leg of the St. Louis Gateway Arch while it was under construction. ACTION served as the central organization for desegregating working class jobs well into the 1980s.

The list of actions taken by Mr. Green on behalf of his fellow citizens is long indeed. Even today, at age 69, he remains deeply committed to ending injustice and protecting human rights. His great courage, personal sacrifice and vision have earned Percy Green national recognition and praise.

Mr. Speaker, I am honored to recognize Mr. Percy Green II before the U.S. House of Representatives for his lifetime achievements in the civil rights movement. He is among my heroes and I am proud to salute him for his many lasting contributions to both our community, and to the Nation.

ENERGY POLICY ACT OF 2005

SPEECH OF

**HON. DEBORAH PRYCE**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 21, 2005*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy:

Ms. PRYCE of Ohio. Mr. Chairman, I rise to express some concerns that I have with the Ford amendment. I support the concept of promoting production of fuel efficient vehicles and encouraging the creation of U.S. jobs. But there are some issues that should be clarified as the bill proceeds to conference. I understand it is Congressman FORD's intention that any manufacturer producing vehicles in the United States would be eligible for funds under this program. That is encouraging and that intention needs to be made clear in the final statutory language in conference.

There are other terms that need additional clarification as well. What is meant by an "efficient hybrid" and an "advanced diesel vehicle"? If we are going to subsidize production, we should incentivize only the most efficient vehicles that reduce our nation's dependence on foreign oil.

In addition, I am concerned that the consumer incentives provided by this legislation are to be provided by the manufacturer. I am not sure how that would work logistically. The mechanism for distributing the incentives should be further refined.

And finally, before we enact this provision into law, we need an opinion from the Office of the United States Trade Representative as to whether it is consistent with our international obligations under the World Trade Organization and the North American Free Trade Agreement.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

COMMEMORATING THE 90TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

**HON. JOHN J.H. "JOE" SCHWARZ**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. SCHWARZ of Michigan. Mr. Speaker, I rise today to join my colleagues in commemorating the 90th anniversary of the Armenian Genocide.

Beginning on April 24, 1915, the Armenian Genocide was a horrific act of mass violence that should be remembered in infamy as one of the most egregious violations of human rights to ever befall this planet.

It is altogether fitting that we should commemorate this horrible tragedy, and that we should take note of a further outrage: that the government of Turkey, as well as that of these United States, to this day—90 years after the crimes began—has failed to recognize the slaughter for what it was: genocide.

We are speaking of the murder of one-and-a-half million people.

Torture, starvation, death marches, the killing of innocent civilians—all crimes against humanity and completely deserving of the world's condemnation.

Today, I join my colleagues from the Congressional Caucus on Armenian Issues in calling upon the administration and the government of Turkey to formally recognize the Armenian genocide. Its time has come.

LADY MARAUDERS WIN STATE SOCCER CHAMPIONSHIP

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to commend the Lady Marauders of Marcus High School in Flower Mound, located in the 26th Congressional District of Texas, on their State Soccer Championship.

The Lady Marauders were coached to victory over North Mesquite by Kevin Albury who described his successful team as being very close-knit, "It's taken six years, but we finally did it. We said this was our time to do it, and our girls came ready to play."

This May, 14 of the winning players will graduate. Twelve of the 14 will continue their soccer career at the collegiate level; a fact that demonstrates the high caliber of the team. The win marked the Lady Marauder's first state title and third trip to the 5A state finals.

I am proud of these young ladies for their hard work and dedication to the sport of soccer. I am honored to represent these students, and their parents, teachers and especially their coach, in Washington. They are wonderful representatives of the great State of Texas, and I know that the Marcus Lady Marauders will continue to see many future successes.

THEODORE OLSON DEFENDS AN INDEPENDENT JUDICIARY

**HON. BARNEY FRANK**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. FRANK of Massachusetts. Mr. Speaker, Theodore Olson, most recently Solicitor General under President George Bush from June 2001 until July of last year, is without question one of the leading members of the American Bar, and a very important figure in conservative politics. Mr. Olson understands that there not only is no conflict between an energetic political and intellectual conservatism and a deep respect for an independent judiciary, but that in fact the two are, as American history shows, wholly complementary, and in some ways reinforcing.

On April 21, Mr. Olson published a cogent, well-argued essay in the Wall Street Journal headlined Lay Off Our Judiciary. The article is an impressive rebuttal to some of the irresponsible, thoughtless attacks that have been made both on specific judges and on the notion of an independent judiciary. Clearly, Mr. Olson makes these arguments out of a genuine commitment to the institution of an independent judiciary, and not because he takes one side or another in a particular dispute that has found its way to the courts or to Congress. As he notes, "calls to investigate judges who have made unpopular decisions are particularly misguided, and if actually pursued, would undermine the independence that is vital to the integrity of judicial systems."

Mr. Olson goes on to be very critical of various aspects of the nomination battles now occurring in the Senate. I do not agree with everything he says here, but the importance of his overall affirmation of the centrality of an independent judiciary to our system of government is so relevant to current political debates that I ask that it be printed here.

[From the Wall Street Journal, Apr. 21, 2005]

LAY OFF OUR JUDICIARY

(By Theodore B. Olson)

A prominent member of the Senate leadership recently described a Supreme Court justice as "a disgrace." An equally prominent member of the leadership of the House of Representatives on the other side of the political aisle has characterized another justice's approach to adjudication as "incredibly outrageous." These excoriations follow other examples of personalized attacks on members of the judiciary by senior political figures. So it is time to take a deep breath, step back, and inject a little perspective into the recent heated rhetoric about judges and the courts.

We might start by getting a firm grip on the reality that our independent judiciary is the most respected branch of our government, and the envy of the world.

Every day, thousands and thousands of judges—jurists whose names we never hear, from our highest court to our most local tribunal—resolve controversies, render justice, and help keep the peace by providing a safe, reliable, efficient and honest dispute resolution process. The pay is modest, the work is frequently quite challenging, and the outcome often controversial. For every winner in these cases, there is a loser. Many disputes are close calls, and the judge's decision is bound to be unpopular with someone. But in this country we accept the decisions of judges, even when we disagree on the merits,

because the process itself is vastly more important than any individual decision. Our courts are essential to an orderly, lawful society. And a robust and productive economy depends upon a consistent, predictable, evenhanded, and respected rule of law. That requires respected judges. Americans understand that no system is perfect and no judge immune from error, but also that our society would crumble if we did not respect the judicial process and the judges who make it work.

We have recently witnessed tragic violence against judges, their families and court personnel in Chicago and Atlanta. These incidents serve as reminders of how vulnerable the judiciary is to those who may be aggrieved by judges' decisions. Violence and intimidation aimed at judges is plainly intolerable; all of us can, and should, be unequivocally unified on the proposition that judges must be protected from aggrieved litigants and acts of terrorism. The wall between the rule of law and anarchy is fragile; if it is penetrated, freedom, property and liberty cannot long endure.

This is not to say that some judges don't render bad decisions. Arrogant and misguided jurists exist, just as such qualities may be found in the rest of the population, and our citizens and elected representatives are fully justified in speaking out in forceful disagreement with judges who substitute their personal values or private social instincts for sound jurisprudential principles. But the remedies for these aberrations consist of reasoned, even sharp, criticism, appeals to higher courts, and selection of candidates for judicial positions that respect limits on the roles of judges.

But, absent lawlessness or corruption in the judiciary, which is astonishingly rare in this country, impeaching judges who render decisions we do not like is not the answer. Nor is the wholesale removal of jurisdiction from federal courts over such matters as prayer, abortion, or flag-burning. While Congress certainly has the constitutional power, indeed responsibility, to restrict the jurisdiction of the federal courts to ensure that judges decide only matters that are properly within their constitutional role and expertise, restricting the jurisdiction of courts in response to unpopular decisions is an overreaction that ill-serves the long-term interests of the nation. As much as we deplore incidents of bad judging, we are not necessarily better off with—and may dislike even more—adjudications made by presidents or this year's majority in Congress.

Calls to investigate judges who have made unpopular decisions are particularly misguided, and if actually pursued, would undermine the independence that is vital to the integrity of judicial systems. If a judge's decisions are corrupt or tainted, there are lawful recourses (prosecution or impeachment); but congressional interrogations of lifetime judges, presumably under oath, as to why a particular decision was rendered, would constitute interference with—and intimidation of—the judicial process. And there is no logical stopping point once this power is exercised.

Which member of Congress, each with his or her own constituency, would ask what questions of which judges about what decisions? Imagine the kinds of questions asked routinely in confirmation or oversight hearings. How can those questions be answered about a pending or decided case? And what if a judge refused to testify and defend his reasoning about a particular decision? Would an impeachment or prosecution for contempt of Congress follow? Either would be unthinkable. Federal judges are highly unlikely to submit to such a demeaning process and, if push came to shove, the public would undoubtedly support the judges.

No discussion of the judiciary should close without reference to the shambles that the Senate confirmation process has become. It does no good to speculate about how or when the disintegration began, which political interest has been the most culpable, or the point at which the appointment of judges became completely dysfunctional. That sort of debate is both endless and futile. The only hope for an end to the downward spiral is for the combatants to lay down their arms; stop using judicial appointments to excite special interest constituencies and political fundraising; move forward with votes on qualified, responsible and respected nominees so that those who have the support of a majority of the Senate can be confirmed, as contemplated by the Constitution; and remove the rancor and gamesmanship from the judicial selection process.

We expect dignity, wisdom, decency, civility, integrity and restraint from our judges. It is time to exercise those same characteristics in our dealings with, and commentary on, those same judges—from their appointment and confirmation, to their decision-making once they take office.

#### INTRODUCTION OF SHAREHOLDER DESCENDENTS VOTING STANDARD AMENDMENT

**HON. DON YOUNG**

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. YOUNG of Alaska. The Alaska Native Claims Settlement Act (ANCSA), as originally enacted, limited Alaska Native Regional Corporations from enrolling Natives born after December 18, 1971, as shareholders in their respective corporations. Subsequent amendments to ANCSA have allowed Regional Corporations to include Natives born after December 18, 1971 (often referred to as "New Natives" or "Shareholder Descendents"), if existing shareholders of the Corporation adopt a resolution at an annual meeting. Thus far, very few Native Corporations have adopted resolutions to include Shareholder Descendents, in part because the standard for adopting a resolution is too high.

Existing law provides that a resolution is considered approved by the shareholders of a Native Corporation if it receives an affirmative vote from a "majority of the total voting power of the corporation". At any given annual meeting; however, the total voting power of the corporation is not exercised.

Accordingly, it is possible that eighty-five to ninety percent of the voting proxies at an annual meeting would be required to vote in favor of a Shareholder Descendents resolution. This is an extremely difficult threshold to meet. Accordingly, the attached proposed amendment would allow a Shareholder Descendents resolution to be approved by a majority of the shares present or represented by proxy at an annual meeting. If a change is not made to the existing voting standard for adoption of a Shareholder Descendents resolution, the promises of ANCSA are potentially left unfulfilled, at present, two generations of Shareholder Descendents.

#### ENGINEERING A SOLUTION; BRING WOMEN INTO THE FOLD

**HON. ZOE LOFGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Ms. ZOE LOFGREN of California. Mr. Speaker, amidst the controversy surrounding recent disparaging remarks regarding women in science, I was encouraged to read an editorial from a shining star in Silicon Valley, Carol Bartz, the President and CEO of Autodesk and a member of the President's Council of Advisers on Science and Technology. Ms. Bartz is right, while the controversy of women in science rages on, "unless we bring the other half of our population [women] into the engineering ranks, that [U.S.] leadership [in engineering] inevitably will evaporate."

I would like to include Ms. Bartz' editorial, printed in the San Jose Mercury News on March 24, 2005, in the RECORD.

[From the San Jose Mercury News, Mar. 24, 2005]

#### ENGINEERING A SOLUTION: BRING WOMEN INTO THE FOLD

(By Carol Bartz)

Last week, Harvard University President Lawrence Summers suffered the sting of a faculty no-confidence vote, stemming from his remarks in January about women in science.

But every day, U.S. companies and the U.S. economy suffer the far more significant sting of girls avoiding science and engineering career paths in droves.

Despite interesting work and excellent pay—an average of \$81,000 a year, almost twice U.S. median household income—employers are begging people to fill positions. Yet just one in 10 engineers is a woman, a far worse track record than science or math.

Why are girls who are fully capable of planning cities, designing jet engines or creating the next iPod avoiding engineering? Is it some biological difference in the female brain, the premise that cost Summers so dearly? Or is it simply a lack of encouragement during those crucial teen years when career paths are forged?

Does it matter?

Even with top salaries, the free-market supply of electrical and mechanical engineers is well below U.S. demand. Something is clearly wrong. The answer is obvious: We are relying on archaic, boys' club traditions to supply an industry that instead should serve as a role model for pure efficiency and reason. And we risk global competitiveness as a result.

No responsible CEO would try to build a business by ignoring the value of half her available capital. That would abrogate her responsibility to shareholders, employees and customers. Yet the engineering world is engaged in precisely this irresponsible corporate behavior by failing to take advantage of one-half of the available human "capital."

And in America we do so at our peril, because a perfect storm is brewing.

On one side of our nation looms international competition in engineering-dependent industries we once dominated. The only answer to maintaining our competitive edge is to use our engineering expertise to create innovation.

Looming on the other side is an immense gap between the demand for innovative young engineers and the number of students awarded degrees in mechanical and electrical

engineering. Every day the gap grows, as an aging national workforce of some 2 million engineers gradually retires without nearly enough graduates to take their place.

With our national competitiveness for the 21st century at stake, we have no choice. We must work to change the status quo and ensure that the female half of our population makes its proportional contribution to the ranks of engineering.

As a software engineer by training, and the CEO of a company whose products are used by millions of engineers globally, I have seen the current system firsthand.

Even at the Massachusetts Institute of Technology's School of Engineering, the No. 1-ranked school in the country, U.S. News & World Report found women made up only 25 percent of graduate enrollment last year.

The private sector must shoulder much of the burden of attracting women to the field. Offering competitive salaries is not enough. It is incumbent on companies to make an engineering career compelling in all of its aspects to young women—to re-energize the field and reintroduce the "cool" factor that engineering once possessed.

There is some hope. Already, the National Science Foundation, the Business-Higher Education Forum and other organizations are working hard to encourage women to join the ranks of American engineers. As for the "cool," this weekend, San Jose State University will host the regional round of the FIRST Robotics competition, offering high school students (girls included!) the opportunity to solve engineering design problems using robotics.

For more than a century, America's global economic leadership has rested on innovation by our engineers, the best in the world. Through them, we have been able to meet tremendous challenges, building the world's most complex infrastructure, some of the world's largest and most important cities, and products that have changed the lives of people everywhere. Unless we bring the other half of our population into the engineering ranks, that leadership inevitably will evaporate.

#### ARMENIAN GENOCIDE

**HON. MARTIN T. MEEHAN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. MEEHAN. Mr. Speaker, I rise today to pay tribute to the 1.5 million Armenian men, women and children who lost their lives during the Armenian Genocide.

April 24th marks the anniversary of one of the darkest tragedies in human history—one that must be properly commemorated as the first genocide of the 20th century. On this day ninety years ago, the Ottoman Turk regime began rounding up hundreds of Armenian intellectuals and political leaders to be deported or executed. Thousands more Armenians were killed in their homes or on the streets. For five years, the brutal regime carried out the systematic destruction of the Armenian people through forced labor, concentration camps, and death marches, until millions were dead or exiled.

As we look back on the bloodshed and atrocities committed against the Armenian people, we must publicly acknowledge the weight of this human tragedy. I am disappointed that President Bush failed to characterize the brutal massacre of the Armenian people as a genocide in his annual commemoration address. To deny this truth is to

dishonor the memories of the millions of Armenians who lost their lives to ethnic cleansing.

The April 24th remembrance of the Armenian Genocide is also a reminder of the responsibility of all nations to stop these human tragedies from reoccurring. Today, a genocide is taking place in the Darfur region of Sudan. It has resulted in the murders of at least 70,000 innocent civilians, the internal displacement of 1.9 million, and the forced exile of 200,000. The international community must act now before Darfur reaches the scale of the Armenian Genocide.

Massachusetts' Armenian community, much of which I have the honor of representing, is committed to raising awareness of the tragedy that befell Armenians of the Ottoman Empire. Every year, survivors and their descendants participate in commemoration services across the Merrimack Valley to shed light on this dark tragedy. In my hometown of Lowell, the Armenian-American Veterans Honor Guard leads a procession to City Hall for a flag raising ceremony. Through these observances, we will never forget the truth.

TRIBUTE TO SISTER MARY  
ANTONA EBO, CIVIL AND HUMAN  
RIGHTS ACTIVIST

**HON. WM. LACY CLAY**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CLAY. Mr. speaker, I rise today to pay tribute to Sister Mary Antona Ebo, a Missourian who was recently celebrated by the Library of Congress in the "Voices of Civil Rights" exhibit for her inspirational service to our nation. She is one of the "Sisters of Selma," a group of Catholic nuns who risked their lives to promote civil rights.

Sister Ebo's role in civil rights history centered around the brutal "Bloody Sunday," beatings that took place at the Edmond Pettus Bridge in Selma, Alabama. On March 7, 1965, law enforcement officials used horses, clubs and gas to turn back the voting rights marchers as they began their 50 mile march to the state capital at Montgomery. Three days later, in response to a request by the Reverend Dr. Martin Luther King, Jr., Sister Ebo went to Selma with a group of religious leaders from St. Louis. There she spoke out against the violence and urged minorities in Alabama to pursue their right to vote. In recalling her role in the historic events in Alabama, Sister Ebo said recently that she saw her actions as a call from God to make a difference.

After the civil rights marches ended, Sister Ebo continued her life of service to others. In 1967, she became the first African American woman religious professional to head a hospital. She was named administrator of St. Clare Hospital and Health Services in Baraboo, Wisconsin. Today she is a treasured member of the St. Louis community where she serves as pastoral associate at St. Nicholas Catholic Church.

Recently, Sister Ebo recalled her days in the civil rights movement. She told a newspaper reporter: "We did that then, in responding to the need of the moment, but there are still needs that need to be addressed by us as women religious. We need to be speaking out,

speaking up and saying 'No, we will not participate in those kinds of activities, which oppress a part of our people, whether black, white or polka-dot.' "

Mr. Speaker, it is with great honor that I recognize Sister Mary Antona Ebo before the U.S. House of Representatives for her many lifetime achievements. She has been a source of spirit and strength for countless Americans. She is among my heroes and I am proud to salute her for her many lasting contributions to our community and to this nation.

RECOGNIZING THE CAREER AND  
CONTRIBUTIONS OF ROBERT  
MINEHARDT

**HON. RUSH D. HOLT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. HOLT. Mr. Speaker, I rise today to congratulate Robert Minehardt, a distinguished educator at Shrewsbury Borough School, on his retirement after forty years of dedicated service to educating up to three generations of local families.

Robert Minehardt has become a vital part of the Shrewsbury community as he has held nearly every leadership position available to a teacher. Since beginning his career in 1965, he has taught fifth and sixth grades, as a general education teacher and then as a science teacher. Mr. Minehardt has also served as vice-principal for more than 10 years, and also, for a short period as the acting superintendent. He has been the Shrewsbury's Title I director, summer school director, the T&E director, the teacher-in-charge, and the assistant to the superintendent. Outside of the classroom, Mr. Minehardt was also active for several years as a coach to the boy's basketball team, supervisor of intramural sports, and coordinator for the CPR program with Shrewsbury's local first aid squad.

Inside the classroom, Mr. Minehardt had a passion for science concentrated in the areas of oceanography and space exploration. Most notably, his interest led him to advocate for the development of the schools' science program. He organized trips to the beaches of Sandy Hook, NJ and formed the in-school science club program.

As a resident of Shrewsbury since 1968, Robert Minehardt attended high school at Red Bank Regional High in Little Silver, NJ. He then went on to achieve his undergraduate degree at Monmouth University in West Long Branch, NJ and continued his graduate education at Rutgers University in New Brunswick, NJ. Mr. Minehardt returned to Shrewsbury to raise his family including his two sons, Adam and Todd. Both boys attended Shrewsbury schools and were even taught by their father. Currently, Robert Minehardt and his wife, Maggie Minehardt, live in Fair Haven, NJ, where he volunteers as a fire fighter.

Mr. Speaker, on behalf of the entire 12th district of New Jersey, I ask you and my colleagues to join me in congratulating Robert Minehardt on his retirement, and we wish him the best in his move to Florida.

IN HONOR OF THE 2ND  
BATTALION, 113TH INFANTRY

**HON. ROBERT MENENDEZ**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the 2nd Battalion, 113th infantry on their return from Guantanamo Bay. On Thursday, April 21, 2005, family members, commanding officers, local officials, friends and neighbors came together to honor their return with a Welcome Home Ceremony at the Jersey City Armory in Jersey City, New Jersey.

The 2nd Battalion, 113th Infantry has a distinguished record dating back to the Revolutionary War. Their nine month long deployment, from June 2004 to April 2005, was part of Operation Enduring Freedom in support of the ongoing global war against terrorism. The battalion was an integral element of Joint Task Force Guantanamo (JTF-GTMO). I had the honor of visiting with many of these soldiers in December during a trip to Guantanamo, and I can personally attest to their dedication and commitment to protecting the freedoms we all hold dear as Americans.

I would also like to provide a special mention of the Expert Infantry Badge Recipients: Capt. Jurandir Araujo, Jr; 1st Lt. Curtis R. Boyd; 2nd Lt. Peter B. Hegseth Staff Sgt. Nicholas L. Forrestal; Staff Sgt. Michael J. Klock; Sgt. John Casiano; Sgt. Julio C. Garcia, Jr.; Sgt. Daniel M. Kim; Sgt. Benjamin G. Ouckama; Sgt. Winston G. Ouckama, Jr.; Sgt. Roque L. Rodriguez, Jr.; Sgt. Daniel E. Torres; Sgt. Carl M.I. Cabanas; Spc. Damian P. Caceres; Sgt. Damien N. Joseph; Spc. Jorge M. Oliveira; Spc. Ernesto D. Rances; and Spc. Anthony Scally.

Brave members of the National Guard, I believe they can no longer be viewed as simply 'weekend warriors,' but as full-time soldiers making sacrifices to defend our freedom. I believe they all deserve to be treated as such.

Today I ask my colleagues to join me in appreciation of their service, and in fighting to provide health care for these brave men and women and their families, to reduce the retirement age for guardsmen, and to provide readjustment assistance such as counseling, job training, and family assistance.

THANKING STEVEN A. McNAMARA  
FOR HIS SERVICE TO THE HOUSE

**HON. ROBERT W. NEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. NEY. Mr. Speaker, Mr. Steven "Steve" McNamara, the Inspector General of the House of Representatives will be retiring at the end of May after a long and distinguished career in service to the United States Government. His exemplary career spans 35 years of service, the last 5 of which have been spent with the House of Representatives. Steve's considerable professional skills and credentials as a Certified Public Accountant, Certified Internal Auditor, Certified Information Systems Auditor, and Certified Government Financial Manager equipped him for the important role of leading the Office of Inspector General in

the House of Representatives. Through Steve's strong leadership, the Office of Inspector General has conducted essential reviews of the House's financial and administrative operations. These reviews and resulting recommendations have helped the House to achieve our present standards of safety, security, information assurance, and accountability, and Steve's role in these worthy institutional achievements cannot be understated.

Steve's leadership of the Office of Inspector General has spanned a wide area of audit services ranging from the analysis of the House's financial controls to careful analysis of emerging technologies. His business improvement initiatives and focus on efficiency have improved administrative functions in the House Officer organizations and realized cost savings for the House. Furthermore, his efforts have served a valuable purpose in achieving improved services and security for individual Members of Congress and staff. He has worked to ensure fire safety improvements in House facilities and has been paramount to assuring the integrity of the House's information technology systems.

Steve will be missed by all of his colleagues and the House, but he can take great satisfaction in the many positive and important accomplishments of his career. Steve's judicious advice and counsel on matters of significant importance to the House will be difficult to replace. I wish Steve and his wife Jill a joyful and exciting retirement and I thank him once again for his long and distinguished career in Federal service.

HONORING THE HOROWITZ BROTHERS AS THEY ARE RECOGNIZED BY THE CITY OF NEW HAVEN

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Ms. DeLAURO. Mr. Speaker, it is with great pleasure that I rise today to join New Haven city officials, residents, customers, family and friends in paying tribute to Arthur, Leonard, and Philip Horowitz—owners of Horowitz Brothers, a fabric and clothing store which became a New Haven institution.

Emigrating from Russia, Philip and Leonard's father, William, and his uncle, Jack, came to New Haven in 1913 and began selling fabric from a pushcart on Grand Avenue. With hard work, dedication, and a dream they opened a storefront nearby and later, Horowitz Bros. moved to its permanent home on Chapel Street. In later years, Philip, Leonard, and their cousin Arthur took over the family business.

I have often said that small businesses are the backbone of our nation's economy. Through the years, Horowitz Bros. has been a fixture in downtown New Haven outlasting a number of large department stores as well as smaller, family-owned business which have gradually disappeared. For the last ninety years, Horowitz Bros. has been a valued treasure in the City of New Haven—a testament to the American Dream and to the invaluable place small business has in a community.

I have fond memories of going with my mother to pick out fabrics for the dresses she

would make for me as a child. While waiting for my mother to choose her fabrics, you could always find me rearranging the many spools of thread—a habit which I am sure caused some chaos, but was always met with a good natured smile. It was indeed a sad day for the residents and City of New Haven when we learned that Horowitz Bros. would be closing its doors last October—as if we had lost a part of ourselves.

Horowitz Bros. holds a special place in the hearts of employees and customers alike. That is why it came as no surprise when I learned that their faithful customers had begun a petition drive, determined to ensure that the City of New Haven recognized the Horowitz Bros. invaluable contribution to our community—not just as a business, but as a family. Today, city officials, residents, customers, friends and family are gathered to witness the unveiling of "Horowitz Brothers Corner"—the street corner which for so long was home to the very special family-run emporium.

Though we lost Philip just last year, I know that he is with us today and I am proud to stand today to honor Arthur, Leonard, and Philip for all that they brought to our community. It is because of their hard work and their commitment that even though its doors have closed, Horowitz Bros. will forever be a piece of our City's rich history. The naming of this street corner in their honor will ensure that their legacy lives on for generations to come.

TRIBUTE TO SHERRIE ANDERSON

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. MORAN of Virginia. Mr. Speaker, I rise today to pay tribute to Sherrie Anderson who is retiring as the Deputy Director of the Mass Transit Security Programs Office of the Transportation Security Administration. I join my fellow colleagues in honoring the 34 years of service that Anderson has given to the protection of our nation's passengers. I am honored to give my compliments to a woman who has tirelessly pursued improvements in the nation's transportation security. She has played a pivotal role in our nation's defense against terrorism.

For many years, Anderson was a lone voice in the wilderness of the Department of Transportation begging, pleading and cajoling the various modes of transportation to shore up efforts in improving security.

As the guiding light of the Secretary of Transportation's Office of Security, Anderson was in the forefront of the Department's response to innumerable incidents over the past decades including Pan American Flight 103, the first World Trade Center Bombing, and September 11th.

In the wake of 9/11, Anderson was one of the original hires in the Office of Maritime and Land of the newly created Transportation Security Administration. She served as the first Chief of the Rail Passenger Branch, Deputy Director of the Passenger Security Division and then as Deputy Director of Mass Transit Security Programs Office.

In that capacity, Anderson led efforts to improve passenger screening efforts in commuter rail systems. Through her work, the

three-phase Transit Rail Inspection Pilot (TRIP) was undertaken to demonstrate the efficacy of various technologies for passenger security screening systems.

Throughout Anderson's tenure with the Federal Government, she has consistently shown grace and poise that has enabled her to talk to the highest levels of the government as well as those on the frontlines responding to transportation security incidents. Her calmness and level-headedness in crisis situations has been an enduring asset to both the Departments of Transportation and Homeland Security.

I encourage others to continue her dedication to the betterment of transportation security for our fellow citizens. I congratulate the family of Sherrie Anderson on this momentous occasion. I wish her a well-earned retirement, and the thanks of a grateful nation.

CHAMBER MUSIC OF THE HIGHEST ORDER

**HON. BERNARD SANDERS**

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. SANDERS. Mr. Speaker, it gives me great pleasure to commend the Craftsbury Chamber Players, who this year are celebrating a double anniversary. For 40 consecutive years they have performed chamber music in the Northeast Kingdom of Vermont, and for 25 consecutive years they have performed in Burlington, Vermont's largest city. Founded and still directed by pianist Mary Anthony Cox, the Craftsbury Chamber Players bring chamber music of the highest order to northern Vermont.

The Northeast Kingdom is the least populous area of Vermont, yet every summer the woods of Craftsbury, Hardwick and Greensboro reverberate with the sounds of Haydn, Schubert, Dvorak, and twentieth century music. The Craftsbury Players present concerts that are both innovative and broad. Their repertoire spans over 300 years of music, introducing audiences to little-known works of the past and present, as well as those great chamber pieces which have sustained generations of music lovers. Every concert explores music which should be heard, but often isn't: forgotten works by major composers, supposedly difficult compositions by twentieth century modernists, and seldom-preformed works from our very own day.

These world-class performers come to Vermont to play together, to make music because they love the great richness which comes from measured rhythms and ordered sound. It is fitting that this year their anniversary celebration will be capped by the world premiere of a quintet by Kenji Bunch, a long-time violist with the Craftsbury Players. Commissioned especially for this anniversary, it will be performed on July 20, 2005 in Burlington and July 21 in Hardwick.

The Craftsbury Chamber Players have shared their love of music with thousands of people in Vermont. On this, their 40th anniversary, the people of Vermont salute them for their dedication to music and for bringing the best in music to our communities.

TISHCON CORPORATION

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. PALLONE. Mr. Speaker, I rise today to recognize the gracious humanitarian efforts of the Tishcon Corporation, a company that manufactures vitamins and nutritional supplements. Throughout the years, this company has generously donated vitamins, nutritional supplements, money, and time to benefit those in need around the world.

Raj K. Chopra, Vipin Patel, and others established Tishcon Corporation in 1977. The company has consistently developed high quality products while always maintaining the high satisfaction of its customers. In conjunction with Vitamin Relief USA, Tishcon Corporation provides free multivitamins each day for more than 14,000 children at risk for malnutrition.

In addition to providing multivitamins for children, Tishcon Corporation has provided over 2,500 multivitamins to at-risk homeles adults and senior citizens every day. Not only does this company provide vitamins and supplements to those in need, they have also donated money to assist in the distribution of these as well.

I ask my colleagues in the United States House of Representatives to join me in recognizing the outstanding humanitarian accomplishments of Tishcon Corporation, an exemplary model of corporate humanity and citizenship in today's world of business.

---

IN HONOR OF BRUCE HORACE  
CARLSON AND MATT FRIDAY

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. FARR. Mr. Speaker, I rise today to honor two dear friends from the 17th Congressional District of California, Mr. Bruce Horace Carlson and Mr. Matt Friday. Both Matt and Bruce are devoted community activists whose volunteerism and generous spirits have enriched the Monterey Bay region through their work in education, social justice, politics, the environment, health and the arts. Matt and Bruce are soon leaving the Monterey Peninsula and moving to Oregon.

Bruce Horace Carlson was born on April 13, 1942 in Pittsburg, California. Bruce moved to the Monterey Peninsula in 1986 and as long as I have had the pleasure of knowing him, he has been a tireless advocate for Democratic politics and civil rights. In 1999 he became a founding board member of the Monterey County Gay, Lesbian and Straight Education Network (GLSEN). He was a founding member of the Monterey County Coalition for Fairness and was a founding board member of the Monterey County Lesbian, Gay and Bisexual Task Force. He was the co-director of Monterey's first Gay Pride Parade in 1992 and has been involved in several annual Pride Days since then. To say Bruce has been active in local and national Democratic politics would not go nearly far enough in describing the level of his contributions. Bruce has played

a significant role in the 27th Assembly District since 1996 holding various offices and committee seats. He has been a Representative for the Bay Area Municipal Elections Committee in Monterey County since 1994 and has been a board member of that body since 1996. In addition to his many hours of organizing and volunteering locally, Bruce has been a delegate to the California State Convention as well as being a delegate to the Democratic National Convention held in Los Angeles in 2000.

Mr. Matt Friday was born on September 21, 1950 in Ottumwa, Iowa but has made his home on the Monterey Peninsula for over three decades. In those three decades, Matt has made an enormous and everlasting impact on this community in areas as diverse as education, the environment, health, the arts, as well as social justice and politics. I cannot think of any other individual in my district who has donated more time to these issues than Matt. Matt has tirelessly dedicated his efforts to the Monterey Bay community as a volunteer teacher, a co-founder of several environmental projects, a board member for the Monterey County AIDS Project (MCAP) and a frequent contributor to numerous local publications. Matt is also a respected and accomplished organizer in the area of human rights and has organized dozens of educational community forums on issues such as hate crimes, racism, and the PATRIOT Act.

In the area of politics, Matt will leave behind a legacy of thoughtful, energetic and strategic volunteering, planning and organizing from which this community continues to benefit. Matt Friday's name is synonymous with progressive politics on the Peninsula; to say he embodies politics does not overstate the level of his political activism in my district. It would be a futile effort to attempt to list all of Matt's contributions to local politics but some of his most notable achievements have been to co-organize a very successful precinct captains program with neighboring Santa Cruz County during the 2004 election, serving as Chair of the 27th Assembly District from 1999–2003, appointed to be a member of the California State Democratic Central Committee since 1996, serving as co-President of the Bay Area Municipal Elections Committee 2003–2004, and acting as an observer and commentator for KION-TV during the 2000 Los Angeles Democratic National Convention.

It is evident that Matt and Bruce will be missed for all of their contributions and volunteerism to the community, but Mr. Speaker I must also say that I will profoundly miss Matt and Bruce for their kind, warm, and generous spirits. I have spent many evenings in their wonderful home in Del Ray Oaks talking politics and human rights and admiring their gorgeous terraced garden which they lovingly cultivated over the years. I have always felt as if Matt and Bruce were a part of my extended family in my district. I will miss them both personally and professionally.

Mr. Speaker, I would like to take this opportunity on the floor of this great House to thank Matt Friday and Bruce Carlson for their generosity of spirit and for the everlasting contributions they have made to the Monterey Peninsula. I wish them all the best as they embark on a new chapter in their lives.

COMMEMORATING THE 90TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

**HON. CHRIS VAN HOLLEN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. VAN HOLLEN. Mr. Speaker, I rise today to commemorate the 90th anniversary of the horrific events that occurred in the Ottoman Empire from 1915 to 1923. The Armenian Genocide was a global tragedy. Over an eight year period, one and a half million Armenians were killed and about a half a million more were forced into exile. Every one of us, as citizens of the world, has a responsibility to ensure that the legacy of the Armenian Genocide is acknowledged and remembered so such human tragedies will not reoccur.

We debated for months, as systematic killings occurred in Darfur, about whether the actions there constituted acts of genocide. That is why I rise today to voice my disappointment at the administration's continued lack of clarity when referring to the genocide that occurred during the time of the Ottoman Empire. Falling well short of a declaration, the President referred to the tragedy in his April 24 statement as a "great calamity." Indeed, what occurred was a calamity of such dimensions that the Armenian people are still dealing with its consequences today. But genocide is more than calamity.

I share the opinion of the members of the Armenian Assembly of America who say the President's weak statement, "was a missed opportunity . . . to speak the truth plainly, to once and for all avoid using evasive terminology. . . ." Just as there is no reason to equivocate about what is happening to the people of Darfur, there is no reason to equivocate about what happened to the Armenians 90 years ago. Genocide is genocide.

---

RECOGNIZING AND HONORING THE  
CAREER OF MR. LOUIS J.  
DIFILIPPO

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. MORAN of Virginia. Mr. Speaker, it is with great pleasure that I rise today to recognize and honor the career of Mr. Louis J. DiFilippo as he prepares to retire after 40 years of distinguished service in support of our Nation. Throughout his career, DiFilippo has lived the Navy's core values of Honor, Courage, and Commitment, and he has led the Navy and the Naval Facilities Engineering Command through a period of unprecedented challenges and change.

In November of 1965, DiFilippo began his service to the Navy at the Northern Division, Bureau of Yards and Docks in Boston, MA. He started as a GS-2 Clerk, and over the course of his career rose through the Civil Service ranks to become a GS-15 senior manager for the Naval Facilities Engineering Command. He leaves a record of service, professional development, and dedication to our Nation not commonly seen these days.

A native of Boston, and a dedicated member of Red Sox Nation, DiFilippo continued

with Northern Division, and then Chesapeake Division, to become a GS-7 Management Analyst. Moving to Washington DC in June 1970, he continued to progress at the Chesapeake Division, becoming a GS-11 Program Analyst. In April 1973, he was promoted to Headquarters, Naval Facilities Engineering Command, where he began as a GS-11 Employment Development Specialist. For the next 15 years, Mr. DiFilippo had a most profound impact on manpower matters in the entire Command. For 9 years as a GS-13, he led the Naval Facilities Engineering Command Professional Development Program, bringing numerous professionals onto the roles, and nurturing their careers through professional guidance and support. Many of those he hired and guided are now the key leaders in the organization.

Moving up again in the Naval Facilities Engineering Command, DiFilippo became a GS-14 Supervisory Management Analyst in the Office of Civilian Personnel Programs, and eventually became the GS-15 Director of the Office of Civilian Personnel Programs (the "DCPP," as his position is known), with wide responsibilities for all aspects of personnel policy and management.

Someone of his breadth of talent is often called upon to help in other areas. In July 1988, DiFilippo was detailed to the Pentagon to support the Navy Model Installations Program. His extensive knowledge and skills helped numerous initiatives gain acceptance and improve the Naval shore establishment. He continued with the Model Installation Program at the Naval Facilities Engineering Command until April 1991, when he became the GS-15 Special Assistant to the Deputy Director of Programs and Comptroller at the Naval Facilities Engineering Command. In this position, he influenced major budgetary and program decisions, improving efficiency and effectiveness.

From 1993 until his retirement, Mr. DiFilippo served as the GS-15 Director of Corporate Management, acting as the Special Assistant to the Commander, Naval Facilities Engineering Command, and to the Deputy Commander for Operations. His positive influence on Command decision-making during this period cannot be overstated. He has been the steady, keen mind helping to implement major Command initiatives, and advising not only senior managers, but the entire Command. Everyone in the Naval Facilities Engineering Command knows that if you need an answer, "Just ask Lou."

DiFilippo's steadfast leadership and superb performance have won him awards almost too numerous to mention. He has received the Superior Civilian Service Award three times (1982, 1984 and 1998), and the prestigious Distinguished Civilian Service Award in 2005. He leaves behind a legacy of mentorship and service that will be difficult to match, along with a cadre of leaders within the Command that have benefited from his professional guidance.

I am pleased to recognize and thank Louis DiFilippo for his long and dedicated service to this country, and I join his family, friends, and colleagues in wishing him "Fair Winds and Following Seas" as he begins his well earned retirement.

HONORING THE LIFE OF THOMAS BROWN

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the memory of an outstanding American—Mr. Thomas Brown of La Grange, IL, who passed away on April 11, 2005.

To say that Tom Brown devoted his life to service is an understatement. A native of Cicero, IL, Mr. Brown married his childhood sweetheart, the former Helen Sauer in 1942—right before joining the Army Air Corps as a bombardier. While flying a mission on March 26, 1945, Lieutenant Brown's bomber was hit by enemy fire over Austria, and the father-to-be became a prisoner of war.

Not satisfied to sit on the sidelines for the remainder of the war, Lieutenant Brown joined his fellow prisoners in overpowering the guards—and then stealing a German plane! The escapees flew the plane to Allied-occupied Yugoslavia, where they crash-landed the plane after being shot at by Allied troops. Lieutenant Brown received the Purple Heart, the Air Medal, the Victory Medal and the Distinguished Flying Cross for his part in the storybook escape.

Upon returning to the states after the war, Tom Brown did what most veterans did at the time—he went to work, in his case, in the family plumbing business, and he raised a family with Helen.

Mr. Brown's devotion to service led him into local politics, and he served on the La Grange Village Board from 1968 to 1973 and as Village President from 1973 to 1977. In 1983, Mr. Brown took a position as La Grange Code Enforcement Officer and Plumbing Inspector, working until his retirement in 2002.

He was well-known around the community for his wit and easygoing personality. As current La Grange Village President Tim Hansen said, Tom Brown was "the classic old Irish character."

"He was just terrific at limericks and he had a knack for putting people at ease. Both he and Helen have been great friends to the village—just stalwarts in their commitment to helping the village or the church or whatever cause needed them," President Hansen said.

Mr. Speaker, I extend my deepest condolences to Mrs. Brown and the Brown children, as on the passing of Tom Brown, who represented so well the "Greatest Generation."

HONORING THE CONTRIBUTIONS OF JENNIFER HENRY, MARION MIDDLE SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the countless contributions of Jennifer Henry to Marion Middle School.

Jennifer Henry received her B.A. in Anthropology from Texas A&M University. She is currently furthering her education by pursuing her Master's in Secondary Education from Texas State University.

Ms. Henry became interested in teaching while she was a student at Texas A&M. Her studies there convinced her that students need more than just information: they need to be taught how to study and learn. As a result of this insight, Ms. Henry strives to give her students the skills and habits of thought they will need to become successful lifelong learners.

Ms. Henry's goal is to provide a safe, inviting, and engaging classroom environment. She aims to make her curriculum student-centered, and to take advantage of all the available technology resources to facilitate learning. She believes that students learn best from practical examples, and tries to connect learning with real-life applications as much as possible.

Ms. Henry is an energetic and committed teacher, and her efforts have already made a positive impact on her school district and her students. She has a bright future ahead of her, and I am happy to have the chance to applaud her work here today.

INTRODUCTION OF PORTLAND STREETCAR TARIFF WAIVER BILL

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 2005

Mr. BLUMENAUER. Mr. Speaker, I am introducing legislation that will waive tariffs on three new streetcars to be delivered in 2006 for the city of Portland's successful streetcar system. Without a domestic producer of compatible streetcars, it does not seem reasonable that the city should have to pay an additional \$300,000 in tariffs.

The Portland streetcar system has served as an important mobility option in circulating workers, students and visitors throughout the downtown area. Additionally, the system has attracted over a billion dollars in development along its route, linking housing, offices, retail, and Portland State University. Recently, the streetcar was extended down to the banks of the Willamette River and construction has already begun on a further extension to the South Waterfront development project being anchored by Oregon Health Sciences University.

I thank the Ways and Means Committee for consideration of this legislation, which will continue to help improve the transportation options and livability of Oregonians.

TRADEMARK DILUTION REVISION ACT OF 2005

SPEECH OF

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. WU. Mr. Speaker, I rise in strong opposition to H.R. 683, the Trademark Dilution Revision Act.

Trademark law emanates from the commerce clause. It was originally about consumer protection, ensuring consumers are not confused or harmed by the misuse of a famous trademark, rather than property protection. However, with the passage of the Federal

Trademark Dilution Act in 1995, the issue of trademark dilution became more an issue of property protection. The purpose of that law was to enable businesses" to protect the investment that companies have made in branding their products. Consumer confusion was no longer required to establish "dilution." Not surprisingly, private lawsuits in this area jumped from 2,405 in 1990 to 4,187 in 2000.

For example, Starbucks went after a local coffee shop in my district that was named after its owner, Samantha Buck Lundberg. The coffee shop bore the nickname given to her by her family and friends—Sambuck. Ringling Bros.-Barnum and Bailey Circus sued the State of Utah over Utah's advertising slogan that it had "The Greatest Snow on Earth." To the circus this slogan was an obvious play on the long time identification of the circus as "The Greatest Show on Earth." Microsoft sued to prevent use of the term "Lindows" for the Linux operating system software and website produced by Lindows, Inc., arguing that it was clearly an attempt to play on the Windows designation of its own operating system. Lindows eventually changed the name of the product and website to "Linspire" after losing court cases. Best Western International the hotel/motel chain appears to be trying to claim sole right to the word "Best" when it comes to using the word in names of hotels or motels. It has sued both Best Inns and Best Value Inns, contending that those names infringe on its trademark.

In recent years, the Supreme Court addressed these lawsuits in *Moseley, et al., DBA Victor's Little Secret v. V Secret Catalogue, Inc., et al.*, in which *Victoria's Secret* sued a small business in Kentucky. In its opinion, the Court ruled that companies under the Federal Trademark Dilution Act have to prove that their famous brand is actually being damaged before they can use dilution law to force another person or company to stop using a word, logo, or color.

Since trademark laws have an effect not only on famous companies but also on the many small businesses with legitimate business interests, any anti-dilution legislation should be very carefully considered so as not to interfere with the rights of small businesses. The goal must be to protect trademarks from subsequent uses that blur, dilute or tarnish that trademark, but it must also be the protection of small business interests from its more powerful corporate counterparts.

Unfortunately, this bill will change trademark law to make it easier for large companies to sue individuals and businesses for trademark dilution, thus potentially creating rights in perpetuity for trademarks. This bill states that no actual harm will have to be proven; large companies will be able arbitrarily to file lawsuits against small businesses and private citizens.

I agree with the Supreme Court in its unanimous decision in *Moseley*. I think that companies in seeking to impose their trademarks upon the public must show actual harm. If not, we run the risk of trademark owners being able to lock up large portions of our shared language. This open-ended invitation to litigate is especially troubling at a time when even colors and common words can be granted trademark protection.

I urge my colleagues to oppose this bill.

EFFICIENT ENERGY THROUGH  
CERTIFIED TECHNOLOGIES AND  
ELECTRICITY RELIABILITY ACT  
OF 2005

**HON. RANDY "DUKE" CUNNINGHAM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce the Efficient Energy through Certified Technologies and Electricity Reliability (EFFECTER) Act of 2005. I am joined in this effort by a diverse coalition of my colleagues including Mr. MARKEY of Massachusetts, as well as Senator SNOWE of Maine and Senator FEINSTEIN of California. This bill is a more developed version of the EFFECTER Act that Mr. MARKEY and I introduced in April 2004.

With the President's Energy Plan currently stalled in the other body, we believe that this bill can deliver on one of the less controversial issues when it comes to energy policy—energy efficiency. I support the President's Energy Plan and voted in favor of H.R. 6 when it came before this body for final passage. It is my hope that this fine legislation will implement a desperately needed energy policy in this country.

My constituents in San Diego suffered through the Energy Crisis during the summer of 2001. The aftershocks of the rolling blackouts and outrageously high energy prices are still being felt. Gas prices in California are currently the highest in the country at over \$2.50 per gallon. We risk another major blackout and continually soaring fuel prices if we choose to wait before enacting a long term energy policy. My constituents, and all the American people, need solutions now. I am introducing this bill in an effort to pass a portion of our long-term energy plan that can produce results now.

In our legislation introduced last year, Congressman MARKEY and I created legislation that would give builders and consumers a reason to construct housing and purchase equipment that not only saves the consumer money in the long run, but also helps save energy. We have taken this idea and have put it into this bill along with other cost-saving provisions. This legislation offers tax incentives to encourage the production and sale of technologically advanced, energy-efficient buildings and equipment. The incentives will reduce peak power demand, which can diffuse the risk of blackouts and high electricity prices. Peak power shortages cost California \$15 billion in 2000 alone.

These tax incentives are performance based, not cost based. One dollar of federal tax incentives for energy efficiency offered today will not be paid until January-April 2005, but manufacturers will respond to the incentives by investing in production facilities for more efficient products immediately. This will promote the creation of competitive markets for new technologies and designs that are not widely available today, but have the possibility of being cost effective to the consumer in the future.

This bill will have the government lead by example by cutting our own energy bills by upgrading our building energy efficiency standards and purchase specifications, and reauthorizing federal Energy Savings Performance

Contracts, which allow private companies to partner with the government for mutually beneficial cost-effective energy savings. Finally, it includes mandatory electricity reliability requirements that address directly the failures that caused the east coast blackout of 2003.

This bill increases the security and reliability of the electric grid, while reducing natural gas and electricity prices by cutting the demand for natural gas and electricity in the near term, as well as in the longer term. Grid security is improved by adopting mandatory standards for operation.

The EFFECTER Act seeks to address two key power supply issues—electric reliability and natural gas prices. Reducing peak electric demand not only eases pressure on the electric grid but also reduces utility demand for natural gas, a major factor that has led to higher prices. Over the next ten years, this legislation can produce natural gas savings of over 3.3 quads annually—over 12 percent of total gas use; and peak electricity savings of 145,000 megawatts—equivalent to 350 new power plants of 400 MW capacity.

Mr. Speaker, please join me in supporting the EFFECTER Act which will help reduce energy needs and provide for a cleaner environment. Let's respond to our country's desperate needs today, before we have another energy crisis.

HONORING THE CONTRIBUTIONS  
OF MARY JOYCE YOUNG, MARION  
HIGH SCHOOL TEACHER OF  
THE YEAR

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to honor the accomplishments of Mary Joyce Young, Marion High School Teacher of the Year.

Mary Joyce Young came to the profession of teaching late in life. She worked in a medical office for 25 years before returning to Southwest Texas State University to receive her Bachelor's and Master's degrees. She has taught at Marion High School since her graduation in 1988.

Ms. Young believes in teaching her students more than facts and figures. She aims to teach them character traits that will benefit them for the rest of their lives: self-discipline, integrity, and fairness in the home and the workplace. She says that her work is to create well-rounded citizens, as well as successful students.

Ms. Young teaches four subjects at Marion High School: Senior English, British Literature, Government-Economics, and Creative Writing. She loves her subjects, and works every day to teach her students to love them as well.

Mary Joyce Young is an excellent educator, who has changed the lives of many Marion High School students for the better. She is a credit to her community, and a blessing to the people of Marion. I am proud to have had the chance to recognize her here today.



TRIBUTE TO THE REVEREND DR.  
JOHN ROBERTS

**HON. MARCY KAPTUR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Ms. KAPTUR. Mr. Speaker, I am pleased to recognize the Reverend Dr. John Roberts of Toledo for his 40 years of service in Jesus Christ. Our community will join his congregation in celebration of this milestone on April 3, 2005.

Born in Bryant, Mississippi on March 9, 1927 to George and Melvina Roberts, John E. Roberts came to Toledo, Ohio in 1944. Here he attended Libbey and Scott High Schools. When Indiana Avenue Baptist Church was organized in 1946 he was there, and has been active in the church ever since. Prior to his ordination in 1964, Pastor Roberts served his church as custodian, Sunday school teacher, choir member, Trustee Board Secretary, and Deacon. After receiving his ordination, Pastor Roberts preached his first service at the church he helped to organize on the 3rd Sunday of January 1965. Even while Pastor, he pursued his Bachelor of Arts and Bachelor of Religious Education degrees in 1975, his Master of Theology in 1984, and his Doctorate in Biblical Theology in 1985. All of this, in addition to working a second job in order to contribute to the financing of the church structure. Pastor Roberts truly has led his congregation by example, and he acknowledges that his achievements were obtained under the guidance of the Holy Spirit.

Pastor Roberts' tenure at Indiana Avenue Baptist Church has been most noteworthy. Under his leadership, the Christian Board of Education was organized and so were the Junior Church, Couples Fellowship, Singles Fellowship, Widows Fellowship, Recreation Department, Youth Department and Young Adult Department. He has ministered, counseled, taught and led a congregation numbering in the thousands. It has been noted that Pastor Roberts "has opened the eyes of many who were stumbling in spiritual darkness and led them to the light through the study of the Word of God." His theological mastery is complemented by an extraordinary sense of humor and good nature that lifts the spirits of all people whom he encounters. He is a man of God walking among all the people.

A strong and much respected community leader, Pastor Roberts is also an active participant in the Toledo Public Schools PTA, International Ministerial Alliance, Baptist Ministers Conference, and NAACP Lifetime Member. He has also served on the Boards of the Urban League, the J. Frank Troy Senior Citizens Center, and the Frederick Douglass Community Center and served on the Interracial Coalition Committee and the co-chaired the Alcohol and Substance Abuse Task Force Council. His opinion and counsel are highly valued, and he has been asked by civic leaders both past and present to serve on many special commissions.

Despite his community and church commitments, Pastor Roberts' first devotion is to his wife and family. He credits much of his success to his wife, Bernice, to whom he has been married for 55 years. Together they have raised three sons and have five grandchildren.

It is impossible to characterize the life of so great a man into a few short lines of a

RECORD entry. Perhaps no finer tribute may be made than that of the belief of those who know him best that Pastor Roberts is "a man sent by God to lift men's faith, hope, and love."

ENERGY POLICY ACT OF 2005

SPEECH OF

**HON. JOHN F. TIERNEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 21, 2005*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy;

Mr. TIERNEY. Mr. Chairman, I rise in support of the Castle-Markey amendment to strike Section 320 of H.R. 6.

The bill that the Committee reported last week provides the Federal Energy Regulatory Commission (FERC) the authority to approve LNG import terminals. Although this provision allows FERC to consult with state governments, this signals a departure from current law whereby states and localities play a significant role in siting decisions. Protecting the health, welfare, and safety of the surrounding communities—as well as preserving the environment and not disturbing commerce—are critical factors when determining where to site an LNG facility. Let me ask: who knows better than the local officials how a proposed facility will affect their area? To diminish their role in the process, as this provision will, only does a disservice to our constituents who trust us to act wisely on their behalf. At a time when there is a proliferation of onshore and offshore proposed LNG projects, and as there currently exists no framework to make sure that we are meeting our national demand for natural gas in a way that makes sense and best meets the regional needs of American communities, Congress should be strengthening the rights of those in our cities and towns and ensuring they have a vocal and viable role in the process. Section 320 does the opposite. I believe it should be struck from the bill, and urge my colleagues' support for the Castle-Markey amendment.

Section 320 is one of a number of provisions in H.R. 6 that tramples on the rights of states:

This bill provides unnecessary liability protections for manufacturers of MTBE, thus forcing the clean-up cost of drinking-water Contamination to states and localities instead of sending the bill where it belongs: to the polluters themselves. This legislation doesn't just reward polluters, it pays them—giving the MTBE production companies \$1.75 billion in so-called "transition costs" as the pollutant is phased out by 2015. That is irresponsible and fundamentally unfair to the American taxpayers.

The bill also repeals the Public Utility Holding Company Act (PUHCA). PUHCA limits the geographic size and types of subsidiaries energy companies can operate. The law is necessary to help states regulate large, multi-state electricity companies by keeping their corporate structures transparent. Without PUHCA, states will find themselves helpless to protect their consumers against the actions of scandalous energy companies like Enron.

This bill grants the Federal Energy Regulatory Commission (FERC) jurisdiction over reliability standards for electricity transmission networks, allowing the FERC to approve new power lines over states' objections. It abolishes states' rights to meaningful input and participation in decisions over power lines and transmission networks.

The bill also fails to recognize and reflect successful practices being put into use at the state level. Initiatives like California's plan to limit carbon dioxide emissions from automobiles and New York's efforts to organize a consortium of Northeastern states to begin reducing power-plant emissions show promise and ought to be promoted on the federal level.

We had the chance to encourage state innovation with this bill, but its authors and GOP Leadership squandered that opportunity. I am a co-sponsor of Rep. TOM UDALL's renewable portfolio standard bill (H.R. 983), which was offered as an amendment to the energy bill before the Rules Committee but was not made in order. This amendment would establish a state renewable energy account program along with setting guidelines for a renewable portfolio standard. Another missed opportunity here means another missed opportunity to enlist the states as our partners in promoting innovative energy programs to lead us toward a stable energy future instead of undermining states' rights.

This bill also deals a serious blow to the environment. Longstanding public health and environmental laws are under assault in this bill.

Saturday's New York Times reported that H.R. 6 includes a provision that, should it become enacted into law, would constitute one of the most sweeping changes to the Clean Air Act in 15 years. The provision would allow communities to delay cleaning up their dirty air, and complying with national air quality standards, if their pollution is derived from other heavily concentrated areas. This undermines the intent of the Clean Air Act and may lead to increased cases of asthma, which, according to the EPA, already afflicts 20 million Americans, including 6.3 million children.

Hydraulic fracturing, an invasive oil and gas recovery technique, that may contaminate drinking water has been removed from the Safe Drinking Water Act. News reports indicate that the Halliburton Corporation is the largest practitioner of hydraulic fracturing and has been lobbying for this provision.

Rather than seizing an opportunity to address skyrocketing gas prices (the average price is \$2.28), reduce our reliance on fossil fuels and foreign oil, improve our fuel efficiency standards, and bolster the incentives to develop and utilize alternative energy sources, the energy bill before us today upholds the unacceptable status-quo and exacerbates our many current problems, as it:

Authorizes \$8 billion in tax breaks for oil, gas, and nuclear companies, while directing less than \$600 million to promote renewable energy and conservation-related initiatives;

Opens Alaska to oil drilling, although the U.S. Geological Survey projects that the Arctic Refuge has only approximately 3.2 billion barrels of economically recoverable oil, equivalent to what the U.S. consumes in less than 6 months, and would take between 10 and 12 years to introduce the oil into the marketplace; and

Exempts companies drilling on public lands from paying royalties for oil and natural gas

extracted from public lands, which is required under current law and has resulted in billions in additional revenue for states over the past five years.

The bottom-line with this bill, however, is that—as its previous incarnations have done—it reinforces the wrong priorities at the expense of consumers, the environment, and American taxpayers. I urge my colleagues to oppose H.R. 6.

IN RECOGNITION OF THE  
HITCHHIKERS, ROBOTICS TEAM 481

**HON. ELLEN O. TAUSCHER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mrs. TAUSCHER. Mr. Speaker, I rise today to recognize The Hitchhikers, Robotics Team 481, from my congressional district in California. This team won the Engineering Inspiration Award in March of 2005 at the Portland, Oregon, Pacific Northwest Regional Robotics Competition. This award honors success in advancing the science of robotics. By winning this award, the Hitchhikers, Robotics Team 481, qualified to compete in the Championship Robotics Competition in Atlanta, Georgia, where they came in second out of 52 teams in the first round of competition.

The Hitchhikers were created in an independent study course at Contra Costa College, San Pablo, California in the fall of 2002. Under the stewardship of Tom Murphy, a contra Costa College Instructor, Middle College formed its own FIRST robotics team, based on a commitment that the students would build a robot from the ground up. In December 2002, a grant from Kleiner Perkins Caufield & Byers provided initial funding for the Hitchhikers, and the team received its first robot-building supplies in January 2003. In 2004, budget woes triggered a merge with another award-winning team at nearby De Anza High School, with the hopes of keeping robotics alive for students throughout the school district. The students of the merged team resolved to keep De Anza's number 481 and Middle College's name "The Hitchhikers" as a sign of their unity. Since then, the team has connected with local and national supporters. Other sponsors of The Hitchhikers, Team 481, are NASA Robotics Education Project, the Ed Fund (West Contra Costa Public Education Fund), Chevron Richmond Refinery, TAP Plastics of El Cerrito, Planner's Collaborative of Boston, MA and Honda of El Cerrito.

The majority of Robotics Team 481's members are sophomores, juniors and seniors at Middle College, located on the Contra Costa College campus in San Pablo, California. Students also come from nearby De Anza, El Cerrito, and Pinole Valley high schools. The Middle College robotics team was created to help its members learn and understand scientific and engineering concepts while building team- and group-work skills. The Hitchhikers, Robotics Team 481, have managed to accomplish all this and have fun at the same time.

The Hitchhikers, Robotics Team 481, competed in the FIRST Robotics Competition (FRC) National Championship in the Georgia Dome, Atlanta Georgia, April 21–23. FIRST, For Inspiration and Recognition of Science and Technology, is an organization founded

on the sole principle of inspiring young people to find an interest in Science and Technology and using this knowledge in all aspects of life.

Please join me in saluting The Hitchhikers, Robotics Team 481 on their excellent performance in this national robotics competition.

CONGRATULATING PARIS JUNIOR  
COLLEGE ON WINNING NATIONAL  
BASKETBALL TITLE

**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. HALL. Mr. Speaker, I am honored to recognize the Paris Junior College Dragons on winning the 2005 National Junior College Athletic Association Division I Men's Basketball championship on March 26 in Hutchinson, Kansas. This was the biggest win in the school's history and only the second trip for the Dragons to the national tournament, some 46 years from their first visit in 1959.

The Dragons ended their season with nine consecutive wins and set a school record with 28 victories in a season. They were unranked in the national tournament and beat two ranked teams before taking on 16th-ranked Moberly Area Community College, Mo., during the NJCAA Division 1 Men's Tournament championship game. They won by a score of 70–61.

Paris Junior College coach Bill Foy won the Coach of the Tournament award and subsequently was named the National Association of Basketball Coaches Junior College Coach of the Year. Rod Earls was named the William E. French Most Valuable Player, averaging 13 points a game to lead Paris Junior College in scoring and contributing 10 points in the championship game. Alexander Starr received the Charles Fesher Sportsmanship Award and scored 10 points in the tournament final. Mike Battle scored 5 points in the final game and also was named to the all-tournament team.

The leading scorer for Paris was Lamar Searight with 18 points. Other players who contributed to the victory included Brian Burrell, Donnell Franklyn, Rickey Quarles, Bobby Joshua, Tyler Best and Charles Stoker. Joel Green and Albert Reese also are members of the team.

Coach Foy also acknowledged all those whose efforts and support contributed to the team's outstanding season: Assistant Coach Brad Enright, Athletic Director Jim Moffitt, Dr. Pam Anglin, President, and student assistants Tyler Easthouse and Patrick Thompson, among others.

Mr. Speaker, the faculty and students at Paris Junior College, local citizens and loyal fans in Northeast Texas take great pride in their National Junior College Basketball Championship team. I want to take this opportunity in the House of Representatives to congratulate the Paris Junior College basketball players and coaches for their spectacular victory, commend them for their hard work and determination, and wish them continued success.

IN HONOR OF LARRY L. WEYERS

**HON. MARK GREEN**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. GREEN of Wisconsin. Mr. Speaker, it is my distinct pleasure to recognize before this body Mr. Larry Weyers, who on May 2nd will be named the 2005 Free Enterprise Award winner by the Rotary Foundation of Green Bay.

For the last 23 years, the Green Bay Rotary has honored one Brown County resident who has demonstrated leadership in local charitable, civic, government or service programs, while helping expand business and employment throughout the area. In other words, the award winner is someone who exemplifies American free enterprise.

This year, Larry Weyers earned that distinguished honor. As the Chairman, President and Chief Executive Officer of WPS Resources Corporation, Larry has helped his company grow to become one of the most successful businesses in Wisconsin. Under his leadership, corporate assets at WPS have nearly tripled, revenues have quadrupled, net income has tripled, and the company's market value has doubled.

But the success of WPS under Larry's direction is secondary to his role in the community. As an active member of dozens of charitable and civic groups, Larry has worked tirelessly to improve the lives of his neighbors. His commitment to the city of Green Bay and Brown County serves as an example to us all.

Mr. Speaker, I can think of no better individual to receive this award than Larry Weyers, and on behalf of the citizens of Wisconsin's Eighth Congressional District I say congratulations.

HONORING THE CONTRIBUTIONS  
OF BLACKSTONE DILWORTH

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the tremendous achievements of Blackstone Dilworth, Junior Achievement of Laredo Business Hall of Fame Laureate.

Mr. Dilworth has been a proud resident of Live Oak County, Texas, for more than 50 years, but he has a special place in his heart for the people of Laredo, the city which he has made his second home. He began his career working as a farm and ranch appraiser in the border country of Texas, an area in which his family has worked for many years.

He has managed a series of successful businesses, including a number of ranching operations, oil and gas concerns, a telecommunications construction company, and property development. Throughout his career, he has relied on his belief that opportunity is everywhere, for those who are willing to look. He is known to say: "In every problem, somewhere hidden is an opportunity."

Mr. Dilworth loves to travel, and has a deep appreciation for the culture of South and Central America. He is a member of the Explorers Club of New York. He lives with his wife near

Sandia, and has two children and three grandchildren.

Through his initiative, energy, and audacity, Mr. Blackstone Dilworth has contributed enormously to Texas' economic health and vitality. He is a pillar of the business community, and a model for entrepreneurs everywhere, and I am pleased to have the chance to honor him here today.

PERSONAL EXPLANATION

**HON. ROBERT E. ANDREWS**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. ANDREWS. Mr. Speaker, I regret that I missed nine votes on April 20th, 2005 because I was attending an important family event with my 12-year-old daughter. The votes were on amendments to the Energy Policy Act of 2005 (H.R. 6). Had I been present I would have voted yea on rollcall Nos. 115, 116, 117, 118, 120, 121, 122, 123. I would have voted "nay" on rollcall No. 119.

LOOSEN THE GAS PRICE NOOSE!

**HON. BOB FILNER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. FILNER. Mr. Speaker, a gallon of regular gas in San Diego or Imperial Valley has been hovering around the outrageous price of \$2.50, often reaching even higher. Even as the price per barrel of oil declines, the price at our local gas stations stays sky-high.

Every time one of my constituents drives to work, drops a child off at school or drives away on vacation, hard-earned dollars go up in smoke. When our grocery stores have to pay more to get their groceries shipped in, they pass the extra cost on to their shoppers. What's the result? The whopping price of gas is choking our middle and working class—essentially levying a new tax when we can least afford it and boosting the profits of the oil companies!

This is simply unacceptable. We must continue to fight to lower the price of gas and protect consumers. One year ago I called on the Bush Administration to take several steps to loosen the gas price noose, including suspending deliveries to the Strategic Petroleum Reserve; requesting an investigation of market failures and lack of competition; blocking mergers that allow oil companies to manipulate supplies; and implementing strong fuel economy standards to put more efficient and environmentally friendly cars on the road and lower consumption.

An investigation by the Federal Trade Commission in August was inconclusive, and the White House has failed to take any steps to rein in oil companies or reduce gas prices. The energy bill we are considering this week also fails to responsibly tackle this problem, instead offering the same favors to oil companies. In the absence of effective leadership, consumers remain at the mercy of the price-gougers.

That's why I have now appealed directly to the Federal Trade Commission and the Attor-

ney General to launch a broader investigation to determine whether the oil companies have engaged in illegal or anti-competitive practices that contribute to the high gas prices.

Additionally, I am fighting for passage of legislation known as the Gas Price Spike Act, that would implement a windfall tax when oil companies collect excessive profits, provide a tax credit for fuel efficient vehicles, and offer federal grants to reduce mass transit fares.

I call on Congress and the Administration to support me in these efforts to inject fairness and competition into the market and end price gouging at the gas pump!

FLEXIBILITY FOR CHAMPION SCHOOLS ACT

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. GOODLATTE. Mr. Speaker, I rise to offer the Flexibility for Champion Schools Act (H.R. 1821).

Mr. Speaker, on January 8, 2002, the President signed the No Child Left Behind Act, commonly referred to as N-C-L-B. I was fortunate enough to have served on the House Education and the Workforce Committee, which considered the details of this domestic policy proposal put forth by the President.

The goals of N-C-L-B were and are laudable. According to the Department of Education, the No Child Left Behind Act gives our schools historic education reform based on stronger accountability for results, more freedom for states and communities, encourages proven educational methods, and creates more choices for parents.

However, one of the major tenants of N-C-L-B, its FLEXIBILITY to treat different states fairly while maintaining the goals of the underlying legislation; has not been a priority for the Department. A law that was originally intended to react like a rubber-band, to bend but not break, has unfortunately been implemented rigidly and is intolerant of states like Virginia, who had previously administered high testing and accountability standards.

Mr. Speaker, with any new law, especially one as sweeping as N-C-L-B, some hurdles will have to be overcome. To jump through these hurdles, my colleagues and I have attempted to work with the Department to resolve some of these problems. After meeting with some superintendents in my district, we began a dialogue to work through issues that were specific to states like Virginia, which already had high standards in place.

We recently learned of the Secretary's intent to "take into account each state's unique situation" to implement the law. Earlier this year, the Virginia Department of Education proposed a series of waivers that would allow N-C-L-B's goals to mesh with the state's already high standards. Unfortunately, not less than a week after the Secretary's promises of flexibility, the Department rejected the first request for flexibility—one to waive certain assessments of limited English proficiency students in grades K-1 in reading and writing. Mr. Speaker, these are non-English speakers who are 5 years old. I do not believe this demonstrates the flexibility intended by members who supported N-C-L-B.

Without this flexibility, I believe the law is inefficient and duplicative for parents, teachers, students, and state education officers. So we have reached this point where N-C-L-B needs to have a mechanism to recognize the role of certain states in providing accountability. I urge my colleagues to support this important legislation.

Mr. Speaker, we have stood by too long waiting for this flexibility. Our bill does not "water down" N-L-C-B provisions, or its intent. If certain states do not have strong accountability standards, then N-L-C-B is directed at them. But when we have schools in Virginia passing one standard but failing another, sometimes based solely on the results of one student from one particular subgroup, we need to act.

To address these problems, I offer with my colleagues, Representatives JOANN DAVIS, VIRGIL GOODE, JIM MORAN, THELMA DRAKE and RICK BOUCHER, the Flexibility for Champion Schools Act.

The legislation provides that a State which meets certain requirements shall be granted a waiver from the Adequate Yearly Progress (AYP) provisions of No Child Left Behind.

HONORING THE CONTRIBUTIONS OF DIANA DAY OF BILL BROWN ELEMENTARY SCHOOL

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to honor the exemplary work of Diana Day, Bill Brown Elementary School Teacher of the Year.

Diana Day earned her bachelor's degree in interdisciplinary studies from Texas A&I in Corpus Christi. Currently serving as a special education teacher in Comal Independent School District, she has over 9 years of experience.

She teaches Behavior Life Skills to students in grades kindergarten through four, and believes in teaching her students how to solve problems. Each child is an individual, and Ms. Day believes that the best way to teach each of them is through a unique approach. She wants to help teach each of her students the joys of reading and learning on their own. Diana Day works hard empowering young minds and teaching them the skills that they need to be successful in school.

I am honored to have the chance to recognize the accomplishments of Diana Day, the Bill Brown Elementary School Teacher of the Year. Her passion for education has helped to ensure that our children are on the right track.

TRIBUTE TO ROELAND PARK, KANSAS, MAYOR LORI HIRONS

**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Roeland Park, Kansas, Mayor Lori Hirons, who recently left elective office after 4 years of service as mayor, 8 as a city councilmember and 1 year of service on the Roeland Park zoning appeals board.

Lori Hirons has been a visionary and diligent leader of the city of Roeland Park during her tenure as a public servant. Individuals like her across America regularly make significant commitments of their time, resources and personal patience in order to fill these important roles in local government: we cannot thank them enough for doing so.

During her tenure as mayor, I was privileged to work with Mayor Hirons and Senator SAM BROWNBACK to bring to Roeland Park \$1.25 million in vitally needed Federal funds to improve that city's stormwater management facilities. Additionally, Lori and her husband, Frank, have been longtime advisors to me in my capacity as Representative of Kansas' Third Congressional District and I am proud to consider them close, personal friends as well.

Mr. Speaker, I include in the RECORD with these remarks an article recently carried by the Kansas City Star that summarizes Mayor Hirons' lengthy record of service and achievements for Roeland Park. I join with her neighbors in wishing her and Frank all the best as they consider new challenges and I hope she will hear the calling of public service again at a future time.

[From the Kansas City Star, Apr. 20, 2005]

HIRONS HAS MADE A DIFFERENCE IN HER CITY  
(By Kara Cowie)

Much has changed in Roeland Park Mayor Lori Hirons' 13 years with the city.

City Council meetings no longer run until 1 a.m. and are more amiable than they used to be. Neighborhoods are now looking forward to much-needed street and storm water improvements. And instead of a vacant Venture plaza, a soon-to-be vibrant shopping center with a Lowe's home improvement store and brand-new Price Chopper is in the works.

It's taken many, many meetings to make it all happen, but Hirons is pleased with the results of her four years as mayor, eight years as a Ward 1 council member and one year on the city's board of zoning appeals.

Now she's ready for a break.

"I don't think I've done anything in government that's superstar status, but I do think I took the road less traveled," Hirons said. "And I always said I never wanted to be carried out of here in a box."

So, after more than a decade of Wednesday night meetings, tonight will be her last. Just after 7:30 p.m., Hirons is to pass on the gavel to Councilman Steve Petrehn, who ran unopposed for the position earlier this month.

City Administrator John Carter is sad to see her go.

"I've been doing this for 30 years, and the last four were the most enjoyable years working with a very good mayor," he said.

What makes Hirons so special, Carter added, is "her caring for her community, her ethics and her desire to do what's right," as well as her "doggedness." Hirons never gave up her dream of seeing the old Venture plaza redeveloped, and she pushed to expand RoeFest and to turn the Roeland Park Community Center into a true community hub, he said.

Hirons, too, is proud of those accomplishments and several others.

"I can look back 12 years and see a real difference," she said. "That gives you a feeling of pride and accomplishment."

But she is quick to point out the credit isn't hers alone. She's worked with several progressive council members who shared her vision for the city.

Councilman Scott Gregory has known Hirons for about 15 years and, although they don't always see eye to eye, Gregory said, they do share a mutual respect.

"Over the years, Lori and I have been just screaming at each other and yet we come through it being able to talk, being able to deal with each other," Gregory said. "I truly believe that she has remained focused and hasn't indulged in intrigue and manipulation."

Hirons is the first to admit that public service isn't a popularity contest, and some council members may think she's too brusque.

"I am very direct; I am very honest," she said. "You've got to be yourself."

Hirons' direct and honest nature is one of the things Mission Mayor Laura McConwell appreciates the most.

"She's approachable and she is straight; you can believe what she says, and she doesn't play games," McConwell said. "Whether I agree or not, it's a lot easier to know where someone's coming from."

Plus, McConwell added: "She's a lot of fun. She's just a dynamo."

Hirons joined the council in 1993 after a one-year stint on the board of zoning appeals and several years' involvement with her church and neighborhood. She was elected mayor in 2001 with 64 percent of the vote.

In that time she's helped secure professional management for the city and a new building for City Hall and the police department. She's also helped set up benefit districts for storm water projects, secure a \$1.2 million federal grant for drainage improvements and implement a city ethics ordinance, which she described as a moral compass for council members.

Still, Hirons said, her biggest accomplishment is the \$31 million Venture plaza redevelopment project, which is expected to boost the city's sales tax base.

"The work I did on that is hopefully my gift to the city," she said.

Now Hirons plans to devote more time to her career as the vice president for public affairs for Citi Cards, a division of Citigroup in Kansas City, and her husband, Frank.

As for politics?

"I don't believe this is the last time you're going to see my name on a ballot, but it won't be in 2006," she said.

INTRODUCING A BILL TO ENHANCE  
THE SECURITY OF THE U.S. PAS-  
SENGER AIR TRANSPORTATION  
SYSTEM

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 2005

Mr. OBERSTAR. Mr. Speaker, today Congressman COSTELLO, Congressman DEFAZIO and I have introduced a bill to enhance the security of the U.S. passenger air transportation system—The Airport 5 Screener Technology Improvement Act of 2005. This bill will create a Checkpoint Screening Security Fund for the TSA that will fund \$250 million that has been authorized for the deployment of new checkpoint screening technologies. The bill also provides funds for \$650 million a year, which has been authorized for the installation of in-line baggage screening systems.

Mr. Speaker, last week the Department of Homeland Security Inspector General (DHS IG) and the Government Accountability Office (GAO) both released reports that indicate improvements are still needed in the screening process to ensure that dangerous prohibited items are not being carried on aircraft, or enter the checked baggage system. While the trav-

eling public is more secure today than before September 11th, 2001, airport screeners are not detecting prohibited items at the level we need. Regarding the causes of poor screener performance, the DHS IG stated—

Despite the fact that the majority of screeners with whom our testers came into contact were diligent in the performance of their duties and conscious of the responsibility those duties carry, lack of improvement since our last audit indicates that significant improvement in performance may not be possible without greater use of technology. . . . We encourage TSA to expedite its testing programs and give priority to technologies, such as backscatter x-ray, that will enable the screening workforce to better detect both weapons and explosives.

In response to the DHS IG's findings, the Transportation Security Administration (TSA) responded—

We agree with the IG's conclusion that significant improvements in performance will only be possible with the introduction of new technology.

Mr. Speaker, our screening system is failing us because this Congress and this Administration are failing both the screeners and the American traveling public. This Congress has arbitrarily capped the number of airport screeners at 45,000, and has provided neither the resources nor the technology for the screeners to get the job done. It is a failure of leadership and there are no more excuses.

Last year, the National Commission on Terrorist Attacks Upon the United States ("the 9/11 Commission") specifically recommended that the TSA and the Congress "give priority attention to improving the ability of screenings checkpoints to detect explosives on passengers." The Intelligence Reform and Terrorism Prevention Act (P.L. 108-458) authorized \$250 million for the research and deployment of advanced passenger screening technologies, such as trace portals and backscatter x-ray systems. To date, only about \$30 million has been appropriated specifically for the general deployment of these types of technologies.

The 9/11 Commission also recommended that the TSA "expedite the installation of advanced (in-line) baggage screening equipment." The Chairman of the 9/11 Commission testified before Congress that:

The Commission supports an effort to move explosives units out of airport lobbies and into a secured area where they can be integrated into the process of moving the bags from the check-in counter to the loading area in a seamless, in-line process. This will promote greater security, because: (1) screening machines will not be exposed to the public; (2) screeners will be able to focus on screening bags rather than moving them; and (3) fewer people will be congregated around machines in the public area. Moreover, processing bags from checking to loading through an in-line system is functionally more efficient making travel more convenient as well as more secure.

In addition to these benefits, in-line baggage screening systems have a much higher throughput than stand-alone systems. If we install in-line systems, more bags will be screened by explosive detection systems instead of less reliable, alternative methods.

The TSA and airport operators rely on commitments in letters of intent (LOIs) as their principal method for funding the modification

of airport facilities to incorporate in-line baggage screening systems. The TSA has issued 8 LOIs to cover the costs of installing systems at 9 airports for a total cost to the federal government of \$957.1 million over 4 years. The GAO reports that TSA has estimated that in-line baggage screening systems at the 9 airports that received LOI funding could save the federal government \$1.3 billion over 7 years. TSA further estimated that it could recover its initial investment in the in-line systems at these airports in a little over 1 year.

In total, the GAO reports that 86 of 130 airports surveyed are planning or are considering installing in-line baggage screening systems throughout or at a portion of their airports. Moreover, GAO reports that TSA officials have identified 27 additional airports that they believe would benefit from receiving LOIs for in-line systems because such systems are needed to screen an increasing number of bags due to current or projected growth in passenger traffic. TSA officials stated that without such systems, these airports would not remain in compliance with the congressional mandate to screen all checked baggage using EDS or ETD. Yet, the TSA has also acknowledged that it currently does not have sufficient resources in its budget to fund any additional LOIs. While \$650 million is authorized for the installation of in-line baggage screening systems, annual appropriations have not allowed for any new LOIs to be signed.

Our bill will ensure funding for the screening technology we need. We're collecting over \$1.5 billion a year from the passenger security fee. Our bill will put a portion of that fee into two funds that will guarantee that TSA will spend the authorized amount of \$650 million a year and \$250 million for the installation of in-line baggage screening systems and passenger checkpoint explosive detection respectively.

Mr. Speaker, there is overwhelming evidence in the recommendations, findings and statements of the 9/11 Commission, the DHS IG, GAO and TSA that technology is sorely needed to improve security at our airports. We can no longer plead ignorance nor stand idly by and criticize airport screeners working the front line defense in the war on terror. We must demonstrate the leadership and the political will to do what we know is right and deploy technologies that will help our screeners get the job done, and keep the American public safe and secure. I urge my colleagues to join me in working to pass this important legislation.

HONORING THE CONTRIBUTIONS OF DONNA WILLIAMS OF CANYON HIGH SCHOOL

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the numerous accomplishments of Donna Williams, Canyon High School Teacher of the Year.

Donna Williams earned both her Bachelor's and Master's degrees from Texas State University in San Marcos. She currently works as an Algebra II and Precalculus teacher in the Comal Independent School District.

Donna Williams believes that creative teaching methods work best for teaching math, especially in grades nine through twelve. Her approach is self-described as "open, loud and fun," allowing for an atmosphere that is friendly and conducive to learning.

She also spends her time teaching leadership skills and sponsoring the Student Council. Leadership and mathematics are two of the most important skills for success in later life, and Donna Williams works hard to ensure that our kids get the education that they need for success.

It is an honor to recognize the accomplishments of Donna Williams, Canyon High School Teacher of the Year. Her unique perspective on learning helps to make Comal Independent School District a better place for our students to learn.

CONGRATULATING THE NORTH SHORE MUSIC THEATRE

**HON. JOHN F. TIERNEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. TIERNEY. Mr. Speaker, I rise today to honor the North Shore Music Theatre at Dunham Woods in Beverly, Massachusetts, which this year is celebrating its fifty-year anniversary.

The North Shore Music Theatre has been entertaining local audiences and visitors since 1955, presenting both classic and innovative musicals in its unique theatre-in-the-round style. When the Theatre first presented *Kiss Me Kate* in the summer of 1955, the audience sat outdoors in canvas seats. Today, theatergoers are entertained in a modern 1,800 seat facility.

For nearly half of its existence, Artistic Director and Executive Producer Jon Kimball has been at the Theatre's helm. In partnership with his dedicated staff and Board of Trustees, Mr. Kimball has turned the North Shore Music Theatre into a nationally-recognized venue, both in terms of its size and the quality of its productions. The theatre was named by Boston Business Journal as the 2nd largest performing arts organization in the state for three consecutive years.

As a non-profit organization, the North Shore Music Theatre's mission is to increase the awareness, significance and celebration of musical theater and the performing arts through superb entertainment and educational programs. Each year, the Theatre welcomes 400,000 patrons to its six musical subscription series, an original musical production of *A Christmas Carol* and an acclaimed celebrity concert series. In addition, its award-winning Theatre Arts Academy reaches over 100,000 young people annually, through workshops, outreach and youth performances.

It is appropriate that the House recognize this half-century milestone for the North Shore Music Theatre, which has become one of the anchors of arts and culture in our region. Its contribution to the quality of life for the people of the North Shore and beyond cannot be underestimated.

Congratulations to the North Shore Music Theatre for fifty years of entertainment and education. I'm sure I can speak on behalf of my constituents and neighbors when I say that

we all look forward to sharing in the Theatre's bright future.

RECOGNIZING BOB MANSANARES

**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize Bob Mansanares, one of my fellow Coloradans on the occasion of his retirement from government service. For 32 years Bob has been one of our State's most dedicated public servants.

He began his Federal career in 1973 as a claims representative for the Social Security Administration and went on to become the Regional Director of the Office of Workers' Compensation Programs. At the time of his retirement and since July 2001 he has directed the Energy Employees Occupational Illness Compensation Program.

Bob, born in Del Norte, Colorado, to Martin and Ernestine Mansanares, is the oldest of four siblings. Money was scarce in his home but there was always food, clothing and a roof over his head. Above all he had the things that money cannot buy, love and the support of his family and friends. So while Bob grew up poor he never considered himself a victim or disadvantaged. One of his fondest childhood memories is fishing the streams of the valley with his father. Del Norte is an agricultural rural community and Bob and the family did farm labor as a child, picking potatoes and picking peas for a penny a pound to make ends meet. It was there that Bob acquired his work ethic and his unshakable faith in the working men and women of this country. He went from those humble beginnings to be the first in his family to go to college. In 1968 he was recruited by the Migrant Action Program to attend the University of Colorado at Boulder earning his degree in 1972.

While he was a student in college, Bob was torn between making a lot of money and devoting his life to public service. Fortunately for us, he chose the latter and has spent his entire Federal career in programs that focus on workers benefits and entitlements. He chose to repay in some small measure the debt he felt he owed to the community and to those less fortunate than he. As a former farm worker he became keenly aware of the working poor who had little or no knowledge of the benefits and entitlements available to persons who suffered from work related injuries or disabilities.

Over the course of his 32 year career his work philosophy has always been to make the process easier, to avoid acronyms and technical terminology which many find difficult to understand. Under his purview the process has become more user friendly. This lay approach to claiming benefits has been the key to his many successes. Another of Bob's notable achievements is serving as Commissioner on the Veterans Claims Adjudication Commission to review and write the report of findings, conclusions and recommendations for the disposition of claims to the VA.

The joy of his life has been Mary, his wife of 34 years, and their four children, Nick, Elissa, and David. His oldest daughter, Christie, died tragically in an automobile accident in 2001.

Bob has always been a modest man, avoiding the limelight and the accolades he so richly deserves. That is why I chose to honor him now for a lifetime of service, particularly those who might otherwise get lost in the federal bureaucracy.

Bob's simple philosophy includes "taking it one day at a time," and that is what he plans to do. Bob's mother passed away in 2001 and since then he has been telling his father that if he waited until he retired they would spend many days fishing the streams of his youth in his beloved San Luis Valley. Bob, good luck to you and Martin, may the fish always bite and may the sun always be at your back, as you "take it one day at a time."

Enjoy your retirement.

HONORING THE CONTRIBUTIONS  
OF STEF PARAMOURE, CANYON  
MIDDLE SCHOOL TEACHER OF  
THE YEAR

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Stef Paramoure, Canyon Middle School Teacher of the Year.

Stef Paramoure received her Bachelor's degree in Multidisciplinary Studies from Texas Lutheran University in Seguin Texas. She is a bright young star in the Comal Independent School District, having taught for only three years before receiving the prestigious Teacher of the Year award.

Working as a seventh grade science teacher has its challenges, but Stef Paramoure is ready to embrace each new day with optimism and enthusiasm. Putting the students first, she works hard to give them the quality of education that they deserve.

She believes strongly in taking a practical approach to learning science. Ms. Paramoure strives to connect the personal lives and experiences of her students to the subject that she is teaching. Though concentrating on a personalized approach, she is able to make science applicable, useful, and understandable to her students.

I am proud to have this opportunity to recognize the skill and accomplishments of one of Comal Independent School District's newest stars. Her recognition as Teacher of the Year is an excellent start to an already distinguished career.

IN MEMORY OF V.G. STRONG

**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. HALL. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of the Fourth District of Texas, Vilo Glen (V.G.) Strong of Mt. Pleasant, who passed away recently after living 92 wonderful, happy years. V.G. was an active and beloved member of his community and will be missed by all those who knew him.

Born in Nebraska to Walter and Mary Schneider Strong, V.G. received his Bachelor of Science degree at Colorado College and

taught high school in Eckley, CO. After marrying Doris Wells in 1938, he returned to college to receive his Masters degree in 1941. During World War II he was a civilian chemist with the War Department in Pine Bluff, AR, and moved to Mt. Pleasant, TX, in the late 1940s to work for the Cotton Belt Railroad. When offered a promotion with the Cotton Belt in another state, V.G. turned down the opportunity and found a new career as a chemical engineer at Lone Star Steel, where he worked twenty years before retiring.

V.G. and his wife of 66 years, Doris, have been active members of the Mt. Pleasant First Presbyterian Church for over 57 years. V.G. served as a deacon and an elder. He was also active in the Lions Club for over 50 years.

V.G. and Doris developed a passion for traveling after his retirement, visiting more than sixty countries and every continent except Antarctica. Their latest adventure was to Scotland and the Shetland Islands with their grandson and his wife just last August. Also in retirement, V.G. turned a hobby into a part-time job. His love for restoring antique lamps resulted in restoring or converting lamps for numerous East Texas antique dealers and customers.

Most importantly, V.G. had a great love for his family—his wife Doris, sons Jerry and Paul, and five grandchildren. One of his grandchildren, Katie Strong, who is director of the Congressional and Public Affairs Division of the U.S. Chamber of Commerce here in Washington, shared with me her admiration for her grandfather. Katie noted that V.G. was a man of his word who helped so many in need—social outcasts, young people who needed encouragement, young adults who needed guidance and direction.

"While his life was not extravagant, it was good, it was full, and most importantly, it was honest. We could all try to be a little more like the man his grandchildren called Pop-Pop," Katie wrote.

Mr. Speaker, I am honored to recognize this respected and beloved citizen of the Fourth District of Texas and ask my colleagues to join me in paying our last respects to Vilo Glen Strong. May the memory of his wonderful life and his legacy of kindness continue to bring comfort to his family and friends.

TAIWAN OPPOSITION LEADER  
ARRIVES IN CHINA

**HON. DAN BURTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. BURTON of Indiana. Mr. Speaker, a historic event occurred today in the history of Taiwan-Chinese relations, the Leader of Taiwan's Nationalist Party arrived in China for the first meeting between the party of Chiang Kai-shek and the Communists since the Chinese Civil War "ended" nearly six decades ago.

I know that relations across the Taiwan Straits have been much on the minds of many members of Congress in recent months, especially after the Chinese passed the Taiwanese Anti-Secession Law. Although not an official Taiwanese Government visit, the eight-day trip by Lien Chan does represent an opportunity to test the waters, and put the issue of peaceful co-existence between these two historic antagonists back into the realm of public debate.

Analysts and China-watchers disagreed on whether Lien's trip can help ease Taiwan-China tensions. Some have argued that Chen is simply being used by Communist officials to foster a schism in Taiwanese society. Others, such as Robert L. Downen, a former U.S. State Department Policy Advisor for East Asia during the Reagan administration believe that the Lien Chan can win Beijing's trust and cooperation. Mr. Downen has written an interesting Op-Ed piece supporting his position that is worth considering, and I would like to have the text of Mr. Downen's Op-Ed placed into the CONGRESSIONAL RECORD following my statement.

I do not know which side of this debate is right, and I suspect that it will ultimately be left to the judgment of history to decide whether this trip accomplished anything. Nevertheless, a security crisis over Taiwan is something we all must work to avert and perhaps Lien Chen's visit can in some small way persuade the Chinese Government to reconsider their recent actions and return to the "Good Neighbor" policy that has worked so effectively for so long. The quest for peace is worth that small gamble.

BACK ON TRACK

(By Robert L. Downen)

Nearly overlooked in a recent series of pessimistic news stories about rising tensions across the Taiwan Strait is a small but important initiative. Direct, though unofficial talks between senior statesmen of China and Taiwan are about to occur after an interruption of several years. Cross-Strait talks offer a glimmer of hope in an otherwise stormy policy arena. There simply has been too long a delay in direct contact between antagonists in such a sensitive forum as this one. Face to face communication is overdue.

The set of policy actors on both sides has changed substantially since talks last occurred in the 1990s, and post-9/11 global security and political factors form a different environment. The political stalemate between the Chinese mainland and the island of Taiwan is an anachronistic relic of the Cold War demanding attention, and only direct talks will bring about an accommodation. The present leadership in Taipei seems unable to break the icy standoff, and so the opposition Nationalist Party Chairman Lien Chan a former vice president and premier of Taiwan but now a private citizen has accepted an invitation to visit China in April and will meet there with its President Hu Jintao. Lien calls his mission "a trip for peace."

After more than a half-century of deep mistrust between Beijing and Taipei, further estrangement only aggravates the situation politically, militarily, and economically. Direct talks between semi-official representatives of the two sides in the early 1990s did lead to a few practical agreements on handling postal exchanges, fishing disputes, and airline hijackings, as well as a promising agreement to disagree over the meaning of "one China." But that dialogue eventually broke down over statements by public officials and missile tests conducted by China in the Taiwan vicinity. The lapse of time since then has produced additional misunderstandings and stagnation. New governments in both Beijing and Taipei have missed opportunities for contact and occasionally provoked the situation by careless public remarks and behaviors in recent years.

In diplomacy, as in private business, if you are not moving forward you are effectively moving backwards. Inaction is equivalent to regression. Mistrust and lack of confidence on both sides has produced accusations and counter-accusations, fueling arms build-ups

and cross-Strait tensions that increasingly worry the U.S. and its allies. China's recent enactment of an "anti-secession law" and its continuing ballistic missile build-up adjacent to the Strait has produced palpable concern in Washington and European capitals. It has jeopardized the Asian-Pacific region's promising economic development and political stability of recent years.

The time has truly come for bold, creative initiative otherwise known as leadership based on self-confidence, to break the deadlock. The late President Ronald Reagan believed in proactive engagement with adversaries, saying old enemies should "trust but verify" as they reach out and seek to reconcile. Like President Reagan's outreach to the Soviet Union in its final years, the Lien mission proposes to go half-way in extending a gesture of peace, to open a channel of communication to the other side.

Lien's mission is reminiscent of previous milestones when other statesmen chose to reach out to old adversaries at opportune moments in history, often placing their personal reputation and political legacy at risk in the process. His gesture is not unlike that of President Richard Nixon who opened doors for dialogue by visiting China in 1972; or Egyptian President Anwar Sadat who traveled to Jerusalem in 1977 to open discussions with Israel; or even Pope John Paul II who seized the initiative to visit Communist Eastern Europe and later Cuba to open historic new contacts that he believed could change old Cold War relationships.

The international community should welcome this step towards direct unofficial talks between Taiwan and China. Dialogue cultivates mutual understanding, nurtures confidence, builds trust, and creates opportunities for healing wounds and moving forward to break the deadlock. Never underestimate the power of personal engagement the personal touch reduces tensions and prospects for conflict while introducing very human avenues for potential cooperation. There can be no harm in a fresh initiative that energizes the peaceful process across the Strait and promotes the welfare of the people of Taiwan in so many ways.

Americans can cheer the Lien initiative because it serves U.S. interests of peace, international stability, and regional cooperation. It reduces the likelihood that U.S. naval battle groups will once again have to move into the Taiwan vicinity to avert possible conflict between the two sides, as they did in 1996. It greatly improves the prospect that Chinese on both sides of the Taiwan Strait can forge new channels of communication and cooperation, leading eventually to a resolution of one of the world's most dangerous tension spots. Engagement, not estrangement, is the means to reconciliation and stability.

HONORING THE CONTRIBUTIONS OF BARBARA TAYLOR, NORMA KRUEGER ELEMENTARY SCHOOL TEACHER OF THE YEAR

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Barbara Taylor for being named Norma Krueger Elementary School Karrer Campus Teacher of the Year.

Ms. Taylor holds a B.S. in Elementary Education from the University of Houston, and a Masters in Special Education from Our Lady

of the Lake University in San Antonio, Texas. She now teaches fifth grade science at the Marion Independent School District.

Barbara Taylor believes that teaching is an ordinary-seeming profession that presents extraordinary opportunities to those willing to look. She asks herself every day what she can do to make a difference in the world, and in the lives of her students. She is known for seeking out teachable moments in which she can show her students a new way of seeing the world.

Ms. Taylor believes that good teaching can be the foundation for extraordinary lives. This philosophy has led her to be one of her district's most energetic and dynamic educators.

Ms. Barbara Taylor is an exemplary teacher, and a tremendous resource for the families and children of Marion, Texas. Her commitment to our children deserves our respect and thanks, and I am happy to have had the chance to recognize her here today.

AMTRAK BOARD'S REORGANIZATION PLAN

**HON. NICK J. RAHALL II**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. RAHALL. Mr. Speaker, last week, Amtrak's Board of Directors released a set of "strategic reform initiatives" the railroad would like to take "to revitalize U.S. passenger rail service." The Chairman of the Board suggested these reforms would "strengthen passenger rail service at a time when our nation needs it most."

In my view, which I share with many of my colleagues on the House Transportation and Infrastructure Committee, these reforms are misguided and would doom the future prospects for the railroad, result in significant hardships for rail passengers in the long-term and be a tremendous disservice to the hard-working employees of Amtrak.

It comes as no surprise to me that the Board's proposal is similar to that of the Administration's—Amtrak's entire governing body has been appointed by President Bush. To be clear, if these proposals, both from Amtrak and the Administration, go into effect, Amtrak will not survive. In many cases, the millions of people who depend on Amtrak's services will be left with no reliable means of rail transportation.

Of significant concern is the Board's proposal as it relates to its workers. The Board proposes to alter the Railway Labor Act to enable Amtrak to unilaterally change work rules and contract out jobs. The Board's reforms would also eliminate many health, safety and benefit protections for which Amtrak's workers have fought hard. In addition, under the Board's plan, newly hired Amtrak and other passenger rail workers would be placed in the Social Security program instead of the Railroad Retirement System, which has covered rail workers for more than 70 years.

The Board is attempting to put Amtrak's funding burden on the backs of its hard-working employees and for that I will not stand. To that end, I would like to highlight the introduction of the Amtrak Reauthorization Act of 2005, introduced by Chairman YOUNG and Ranking Member OBERSTAR.

This legislation would provide Amtrak with \$2 billion each year through 2008, and would put the railroad on the track to financial and operational stability. This bill also includes strict funding accountability procedures to ensure contractual obligations are met and money is spent wisely. It is this type of proposal—not the Administration's or Amtrak's Board's plan—that will benefit Amtrak and its passengers in the coming years.

In closing, I urge my colleagues to reject both the Bush Administration's and Amtrak Board's proposals to dismantle Amtrak. They aim only to weaken the railroad, place greater financial burden on the states, and harm the hard-working employees of Amtrak and passenger rail throughout the country.

MEDIA CONSOLIDATION

**HON. JANICE D. SCHAKOWSKY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to call attention to a presentation by Charles Benton, chairman of the Benton Foundation, entitled, "Where's the Public? Media Reform in the Digital Age," which he gave at the Engaging in Democracy Series at Ithaca College on January 25, 2005. It is my hope that Congress will address the problems of media consolidation that Mr. Benton discusses. It is our duty to ensure that the public airwaves are meeting the public need.

"I believe the future of media and communications in America is cause for serious concern. In April 2004, I delivered this message to the Council on Foundations, and I repeat it tonight. As we move from an analog world to a digital one, we are truly at a crossroads. At stake is who controls what we see, hear, and read. At stake is our ability to get our message out and make a difference. At stake is nothing less than the health of our democracy. We all have a stake in this debate.

I come here three months after Representative MAURICE HINCHEY and Federal Communications Commissioner Michael Copps spoke to you about media concentration. Given Congressman HINCHEY's representation of this district, I feel I'm visiting the people who brought the message of media ownership reform to Washington—perhaps you can think of this address as Washington reporting back.

The debate over media ownership restrictions is just the tip of an iceberg that has jolted our time-honored communications policy priorities of competition, diversity and localism. Some would say we are now rearranging the deck chairs on the Titanic . . . that media concentration and consolidation are inevitable, and we will drown in a sea of commercialism. But I see it differently. I believe we are embarking on a new journey—kept afloat—and indeed propelled—by the interest, enthusiasm, and energy of a new generation of people concerned about our media future.

Collected in this hall tonight, I hope, are new enlistees in the battle to preserve, protect, and strengthen the public space in America's media environment. Beyond this hall, I hope this message is received by other committed people and organizations who will offer their time, talent, and resources to prevail in this ongoing fight.

By law, as reaffirmed in the Telecommunications Act of 1996, broadcasters have an obligation to serve the public interest. The government provides broadcasters on loan and free of charge exclusive access to a portion of the public airwaves—spectrum—for broadcasting in exchange for their commitment to serve the “public interest, convenience and necessity.”

Under the '96 Act, the amount of spectrum given to television station owners was doubled. The policy rationale for this was to enable them to convert their signals from an analog to a digital format, thereby increasing the number and technical quality of their broadcast channels. For the spectrum needed for one analog channel, broadcasters can now simultaneously air six standard-quality digital channels or one or more high-quality high-definition channels.

When at least 85 percent of homes in a broadcasting market can receive digital signals, the spectrum currently used for analog channels is to be returned to the government for public safety uses, with some spectrum to be auctioned off. Digital television and radio make broadcasting more competitive and valuable in the market, and should enable broadcasters to better serve basic public needs. Remember that broadcasters are supposed to serve as public trustees in their use of the publicly owned airwaves. That at least is the theory on how the system is supposed to work.

Let's look now at the reality, starting with who owns the media. Today, five companies own the broadcast networks, own 90 percent of the top 50 cable networks, and produce 75 percent of all prime time programming. People of color constitute over 30 percent of America, but they own only 4.2 percent of the nation's radio stations and around 1.5 percent of TV stations. The current media landscape already shortchanges our historical commitment to competition, diversity and localism, but in June 2003, a majority of FCC commissioners voted to further weaken it. The FCC decided to relax media concentration safeguards and open the door to a fundamental reshaping of the media landscape. The action would have significantly deregulated broadcast media ownership rules, removing restrictions on the number of outlets a broadcaster could own and control. It would also eliminate “cross ownership” rules that prevented newspapers from buying broadcast stations and vice versa in the same community. The debate leading up to the decision sparked an unprecedented outpouring of public concern over the future of media in America.

Millions of Americans spoke out against relaxing the ownership rules—more than in any other FCC decision to date—yet the FCC acted to allow big media companies to get even bigger—reducing competition at the expense of the public's need for diverse and local content. The sense that the FCC no longer cares about protecting the public interest may have led broadcasters to believe they can get away with more commercialization without protecting the public interest.

But in June of last year, the United States Court of Appeals in Philadelphia reversed the FCC's action. This is a big, big win for diversity, competition and localism in the media, the three stated goals of the FCC. The judges ruled that preserving democracy is more important than freeing big companies to grow

bigger. Perhaps the most important part of the decision is the Court's holding that the FCC improperly applied a presumption in favor of deregulation in its review of the broadcast media ownership rules. Thus, it sent the case back to the FCC for better analysis of public impact. This court action gives the public the chance to argue that ownership rules are necessary for preserving local civic discourse.

In November filings to the Supreme Court, Media General and a coalition of major TV network owners made clear that they are seriously considering challenging the Philadelphia court decision by attacking the bedrock legal rationale for regulating the nation's broadcasters—Red Lion. In the landmark 1969 Red Lion decision, the court held that because broadcasters use a scarce government resource—the radio spectrum—to deliver programming over the air, the FCC is justified in its special regulation of the industry in the public interest. The scarcity argument justifies a range of FCC broadcast regulations, from ownership restrictions to prohibitions on indecent broadcasts. But Red Lion is used as a rationale for regulations that benefit broadcasters, too, including obligations of cable operators to carry the signals of local broadcasters.

Why risk this important commercial benefit? Broadcasters appear sick and tired of FCC regulations limiting their ability to add broadcast stations to their portfolios, regulations punishing them for off-color programming that may seem tame on cable, and regulations requiring them to serve the public interest, not just their commercial interests.

I am confident that even if the Supreme Court hears arguments launched by Media General and others against Red Lion and the “scarcity rationale” for broadcast regulation that the decision's underlying principles will prevail. The most important of these, according to the Supreme Court, is that the First Amendment rights of viewers are paramount.

These giant companies claim that we live in a time of unprecedented media choice: hundreds of TV and radio stations provided by terrestrial broadcasters, cable operators, satellite radio and TV systems, national and local newspapers, and the Internet. But who owns most of this media? You know the names: Time Warner, Fox, Viacom, Disney, GE Universal. Do we really have diverse, competing and local voices?

Additionally, spectrum remains a scarce resource. Wireless telecommunications companies are willing to spend billions—some estimate up to \$100 billion—to start providing services over spectrum currently used by broadcasters. Perhaps if broadcasters are willing to enter auctions for spectrum—like other users are forced to do these days—then they can be freed from what they call burdensome regulation. Until and unless they do so, they should be part of a constructive conversation to spell out their public interest obligations in the digital age.

Some responsible broadcasters are doing just that. As long-time commercial broadcaster Jim Goodmon, who served with me on a Presidential Advisory Committee that examined and made recommendations on digital broadcasters' obligations, puts it, “The broadcast company is fulfilling a contract between itself as the user of a public asset and the public body that owns the asset. As with all contracts, both parties to the agreement need to

know exactly the responsibilities that they have to each other. With minimum standards spelled out, there is no question. As a broadcaster I would like to know what is expected of me in serving the public interest. Required minimum standards and a voluntary code provide the benefit of certainty to broadcasters. I like to know what the rules are.”

Scarcity is not the only argument for regulating broadcasting. Television is ubiquitous and has become the engine of our consumer society. As former FCC Commissioner, Nicholas Johnson, used to say, “TV programs are the flypaper to get people to watch the ads.” Its importance in our democracy is easily highlighted by the vast amounts spent by candidates and organizations on political advertising. It is through these ads, unfortunately, not broadcasters' programming, that most voters learn about candidates and issues.

In exchange for the use of our scarce spectrum, broadcasters have a commitment to serve the “public interest, convenience and necessity.” These basic obligations, called public interest obligations, are critical tools that are designed to ensure that television, at least in part, serves fundamental public needs. Unfortunately the vision and the reality are often at odds.

The FCC has been working on the transition to digital television, at the behest of the nation's broadcasters, for some 20 years. Absent so far has been a comprehensive proposal for establishing public interest obligations that match digital television's capacity.

Americans everywhere have begun to realize that as broadcasters get bigger, the public's benefits are getting smaller. But there is more at stake than the impacts of media concentration and consolidation.

Television has never played a more important role in our lives. But today's television is too often out of touch with today's realities: parents struggling to find educational programming for their children, voters struggling to find basic coverage of local campaigns and elections so vital to our democracy and the effective use of television for emergency alerts to serve needs of the disabled. In each case, broadcasters have too often lost touch with the needs of the people who own the airwaves. We have the right to demand and the FCC has the mandate to ensure that television and radio stations provide programming that is in the public's interest, not just in the owners' commercial interests.

Public interest obligations are about whether our children can turn on a television and find at least three hours per week of truly educational content, about whether in an emergency our televisions can keep us alert and informed. It is about whether we can be active and intelligent participants in our democracy. It's about whether the blind and deaf can access closed captioning and video descriptors for digital works. And about whether we can work towards a day when the voices and views on our airwaves reflect the diversity of our country.

A growing number of Americans are working to ensure these public interest goals are met not just because the law says we must, but because we will be richer as a nation when we do. I hope you will join that fight. The transition from analog to digital television does not just represent a technological change, but an important opportunity to reassess whether the public's airwaves are being used to meet the public's needs.



Last year the Benton Foundation joined forces with two broad coalitions of organizations focused on delivering public dividends with the transition to digital television. Working with these groups, the FCC recently extended a requirement that broadcasters air a minimum of three hours a week of quality educational and instructional programming for children to all of their new digital channels. It is also exploring proposals that would benefit our democratic process and our society by requiring broadcasters to (1) Air a minimum of three hours per week of local civic or electoral affairs programming on the most-watched channel they operate; (2) Promote the FCC's oft-stated goal of diverse viewpoints and voices on television by ensuring that independent producers provide a minimum of 25 percent of their most-watched channel's primetime schedule; and (3) Tell the public how they are serving the interests of their audiences by making this information available in a standardized hard copy and website formats.

These really are minimal requirements, but nonetheless often opposed or ignored by the broadcasters. We are arguing that it's time to put the remote control back into the public's hands and once again give the public greater control over the kind of democracy they participate in, the children they raise, and the security they deserve.

Congress, the courts, regulators and companies are continuing to make communications policy decisions. These decisions will have far-reaching consequences for competition and innovation and ultimately consumer well-being in the media marketplace. While public concern was raised over the FCC's media ownership decisions, too few individuals are aware that broadcasters are obligated to serve them—or that they can get involved in ensuring they do. For those who understand the crucial role of media in this democracy, our first task is to inform and educate the public about this debate and the right of all Americans to participate in it.

In addition to a clearer television picture, consumers need a clearer regulatory picture for how the digital television transition will impact their lives. Consumers deserve to know how broadcasters will serve their day to day television needs—healthy programming for children, healthy programming for our democracy, and healthy programming for our communities. Citizens need as much information about the TV that comes into our living rooms, as about the food that comes into our kitchens.

But to achieve these goals, parents, voters, community leaders, activists, and concerned citizens need to pick up the television policy remote control—and change the tune coming from policymakers in Washington. It takes letting policymakers know that you want reality based public interest obligations that can help make a difference in your lives.

The first product of a coalition of national and local media advocates is a Citizens' Bill of Media Rights—a positive statement of principles and goals of a media reform movement. The Bill has recently been circulated for sign-on. If my message tonight makes you want to get involved, here's the first thing you can do: Read "Citizens' Bill of Media Rights," go online, and sign-on.

At the Benton Foundation, we are releasing the Citizen's Guide to the Public Interest Obligations of Digital Television Broadcasters. Our

guide will serve as a primer for the organizations and people considering taking the policy remote control out of the hands of media giants and their lobbyists and returning it where it belongs—in the hands of the American people, especially in your community. Action item two: check [www.benton.org](http://www.benton.org) for the guide.

This year in mid-May, activists, media creators, academics, and policy makers will meet for three days of learning, sharing, networking and momentum building at the 2nd 2005 National Conference for Media Reform in Saint Louis. Visit [www.freepress.net](http://www.freepress.net) for more information. Action item three: Meet Me In Saint Louis.

There are many valuable resources for keeping up to date on what's going on in media policy—let me highlight two. At the Benton Foundation, we provide a service which summarizes the top communications policy stories of the day. The service, Communications-Related Headlines, is delivered via e-mail and is also available on our web site free of charge, [www.benton.org](http://www.benton.org). Action item four: subscribe to Headlines.

HearUsNow.org follows Consumers Union's long tradition of promoting a fair and just marketplace by empowering consumers to fight for better and more affordable telephone, cable and Internet services or equipment. By focusing on major media, technology and communications issues and emphasizing local stories, HearUsNow.org will help explain increasingly complex issues and the connections between these issues, underscore what's at stake, and offer ways to make improvements. Action item five: Visit [www.hearusnow.org](http://www.hearusnow.org).

Obviously, when working against corporate interests ready to devote billions of dollars to their cause, even more resources will be needed to win the day. Last April, I delivered this message to an audience of philanthropists asking them to fund the ongoing efforts to shape our media future . . . to fund media policy research, education and advocacy. I am happy to say that there's hope coming from this important arena: The Arca Foundation board has committed \$1 million—\$1.5 million per year for the next 3–5 years to a strategic media policy campaign for policy advocacy, organizing, research and content development. With Ford Foundation leadership, the Grantmakers in Film and Electronic Media's new Working Group on Electronic Media Policy was formed to respond to the burgeoning interest among grantmakers to build and share knowledge about key issues in media policy, as well as undertake targeted activities to help advance the dynamic media policy field. All participants hope that this funder cooperation will result in real capacity building for the media reform field.

Several members of Congress, including Representative HINCHEY, are forming a Congressional Media Reform Caucus this month to focus on media ownership, digital transition, and other media-related issues. Last year, Representative HINCHEY introduced the Media Ownership Reform Act. This proposed legislation has three goals: (1) To curb the deregulatory zeal of the Republican majority at the FCC; (2) To restore the Fairness Doctrine; and (3) To reform the broadcast license renewal process and require broadcasters to report both on their public interest performance and their plans for doing so every two years. In today's political climate, the legislation may seem improbable. But most significantly, it

provides a vision of where we'll be when we have true democratic media reform in this country.

Again, we're at a crossroads. Left to its own designs, the majority at the FCC will fight to allow greater consolidation in media ownership while further weakening public interest obligations. With public pressure, with your participation, we may help the FCC envision a democratic media future. In this alternative vision, we, as Americans, could have a media environment that delivers a vigorous, uninhibited marketplace of ideas. In this alternative vision, we could have a media that reflects and responds to local communities. In this alternative vision, we could have a media environment that embraces and enhances the public interest.

Wouldn't you like to be part of that debate and help shape this more democratic and more open media environment? If so, why not join us and get involved?"

HONORING THE CONTRIBUTIONS  
OF SUSAN HARTLEY, BURGES  
DISCIPLINE ALTERNATIVE  
SCHOOL TEACHER OF THE YEAR

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Susan Hartley, Burges Discipline Alternative School Teacher of the Year.

Ms. Hartley has a Bachelor of Science degree in Health Science from Arizona State University, and a Teacher Certification from Ottawa University. She is a relatively new teacher—she has been teaching for 5 years, all of them spent at the Sequin Independent School District.

Ms. Hartley teaches Science and Health to grades 7 through 12. She deals with what can often be a difficult and stressful job in a counterintuitive way: her goal is to make school fun, for herself and her students.

She believes that students learn best when they are enjoying themselves. Her at-risk students are often disconnected from the school or community. She feels that her role is to help these students find ways to reconnect with others. Students who feel like they are part of the community are less likely to be in trouble, and more likely to go on to a successful future.

Ms. Hartley's work with at-risk youth has already distinguished her as one of her school district's most valuable teachers. In her 5 years, she has made a difference in the life of many students, and in the life of her community. She has a bright future ahead of her, and I am happy to have had this opportunity to recognize her.

TRIBUTE TO RUTH VAN GERPEN  
AND THE ONCOLOGY NURSING  
SOCIETY

**HON. JEFF FORTENBERRY**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. FORTENBERRY. Mr. Speaker, I rise today to honor the Oncology Nursing Society

(Oncology Nurse Ruth Van Gerpen. Oncology nurses play an important and essential role in providing quality cancer care. These nurses are principally involved in the administration and monitoring of chemotherapy and the associated side-effects patients experience. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial and supportive care to patients and their families. In short, they are integral to our nation's cancer care delivery system. ONS has five chapters that serve the oncology nurses of Nebraska and help them continue to provide the best possible cancer care to patients and their families in our state.

On behalf of the people with cancer and their families in Nebraska's First Congressional District, I would like to specifically acknowledge Ruth Van Gerpen for her leadership within the Oncology Nursing Society as a member of the ONS Board of Directors. Ruth is a clinical nurse specialist (CNS) for oncology at BryanLGH Medical Center in Lincoln, Nebraska. She has been an RN for 28 years and has devoted 20 of those years to oncology nursing. Ruth works to improve patient outcomes, enhance professional and consumer awareness, and educate and support newly diagnosed individuals and their families. Through Ruth's and ONS' leadership, our nation is charting a course that will help us win the war on cancer.

Cancer is a complex, multifaceted and chronic disease, and people with cancer are best served by a multidisciplinary health care team specialized in oncology care, including nurses who are certified in that specialty. According to the American Cancer Society, one in three women and one in two men will receive a diagnosis of cancer at some point in their lives, and one out of every four deaths in the United States results from cancer. This year approximately 1.37 million people will be diagnosed with cancer and another 570,000 will lose their battles with this terrible disease. Every day, oncology nurses such as Ruth see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment.

Today, more than two-thirds of cancer cases strike people over the age of 65, and the number of cancer cases diagnosed among senior citizens is projected to double by 2030. At the same time, many of the community-based cancer centers are facing significant barriers in hiring the specialized oncology nurses they need to treat cancer patients. We are on the verge of a major national nursing shortage, and it is estimated that there will be a shortage of 1.1 million nurses in the year 2015.

The Oncology Nursing Society (ONS) is the largest organization of oncology health professionals in the world, with more than 31,000 registered nurses and other health care professionals. Since 1975, the Oncology Nursing Society has been dedicated to excellence in patient care, teaching, research, administration and education in the field of oncology. The Society's mission is to promote excellence in oncology nursing and quality cancer care. To that end, ONS honors and maintains nursing's historical and essential commitment to advocacy for the public good by providing nurses and healthcare professionals with access to

the highest quality educational programs, cancer-care resources, research opportunities and networks for peer support.

I commend Ruth Van Gerpen for her leadership and ongoing commitment to improving and assuring access to quality cancer care for cancer patients and their families, and I urge my colleagues to support oncology nurses in their important endeavors.

---

IN REMEMBRANCE OF  
ARCHBISHOP IAKOVOS

**HON. MICHAEL BILIRAKIS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. BILIRAKIS. Mr. Speaker, I rise today in remembrance of His Eminence, Archbishop Iakovos, who faithfully led the Greek Orthodox Church in North and South America for over thirty years. With his passing on April 10th, the world lost a great spiritual leader and humanitarian who desired peace and unity between all nations and religions.

Archbishop Iakovos, who was born as Demetrios Coucouzis on July 29, 1911, first set foot on American shores in 1939, after graduating from the Halki Theological Seminary. In 1945 he received a graduate degree from Harvard Theological Seminary and five years later he became an official U.S. citizen.

When Archbishop Iakovos became the leader of the Orthodox faithful in 1959, he made it his goal to bring the church into mainstream life for his followers. In the spirit of incorporating Greek Orthodoxy in America, he encouraged the use of English in the liturgy, set up dialogues with other Christian denominations, as well as Jewish and Muslim leaders, and became the first Archbishop to meet with a Roman Catholic Pope in 350 years.

As a humanitarian, Archbishop Iakovos also became very interested in political issues, particularly those impacting human and civil rights. He regularly visited the White House and met with every U.S. president from Eisenhower to Clinton. His strong vision for peace compelled him to voice his opposition to the Vietnam War, support for the rights of Soviet Jews, and encouragement for the Middle East Peace process. As a champion of social causes, he will forever be remembered for assisting the civil rights movement in America by marching in 1965 with Reverend Dr. Martin Luther King, Jr. in Selma, Alabama.

Throughout his career, Archbishop Iakovos was highly honored for his work. In 1980, former President Jimmy Carter awarded him the Medal of Freedom, the nation's highest civilian honor. He served on the World Council of Churches and also was awarded honorary degrees from over forty colleges and universities.

Mr. Speaker, please join me in honoring the life and legacy of Archbishop Iakovos, who through faithful leadership brought the ideas of faith, equality, peace, and unity to the forefront of the world's political and religious stage.

CONTRIBUTIONS OF CELIA  
BARRAGAN OF CANYON INTER-  
MEDIATE SCHOOL

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many, accomplishments of Celia Barragan, Canyon High School Teacher of the Year.

Celia Barragan received both her Bachelor's and Master's degrees from Texas State University in San Marcos. She currently teaches fourth grade in Comal Independent School District. With over twenty-eight years of experience in teaching, she understands the unique needs of our kids.

She personally believes that the two most important qualities that can be nurtured are "positive self-esteem" and "responsibility". Teaching young people to place value in these virtues is important for skills and development later in life. With a long and distinguished career, Celia Barragan has helped generations of our students to excel in school.

I am proud to have this opportunity to honor the contributions of Celia Barragan, the Canyon Intermediate School Teacher of the Year. Her many years of passionate service have been a blessing to the Comal community.

---

LONGFORD WATER COMPANY, LLC

**HON. JERRY MORAN**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. MORAN of Kansas. Mr. Speaker, I rise today to recognize the efforts of the citizens of Longford, Kansas in their work to create and support Longford Water Company, LLC.

For years, this town of 89 people has had a reputation for providing high quality, good tasting water. Road signs near the community advised, "For Good Health and Longevity Drink Longford Water, Kansas Purest." Groundwater from Longford is clean and soft because it is naturally filtered by a distinctive group of underground rocks known as the Kiowa Formation. Years ago, communities used to compete at the Kansas State Fair regarding the quality of their water. Water from Longford was a frequent winner.

More than a year and a half ago, a group of local individuals formed Longford Water Company, LLC. The reason: to research the possibility of capitalizing on Longford's reputation for high quality water by bottling it for sale. They discovered that most of the bottled water for sale has been treated by reverse osmosis, a process used to purify water through removal of unwanted chemicals. This procedure is expensive and removes natural minerals from the water that contribute to good physical health. Due to its high quality, Longford water does not need to be subjected to this added expense.

Following extensive research, the company took the following actions: announced that the production facility will be located in Longford; agreed to purchase water from the City of Longford; in order to minimize marketing and shipping costs, established a marketing distribution system that focuses on a 50-mile

area around the community; selected KIWATA as the marketing name for the water and financed the entire project through private funds.

Because of this team effort, The Longford Water Company is now ready to produce, market and distribute KIWATA water. According to Wava Kramer, president of the board of managers, the company has raised the real estate tax base of the city, provided local employment and contributed to the positive image of the Longford community.

Ms. Kramer also noted the entire effort has resulted in other benefits. "Langford water has been long known as nature's finest gift to Kansas," said Kramer. "Another gift is that the process of creating Longford Water Company has brought our community together. Our town is small in size but big in spirit."

For rural communities to survive and prosper into the future, citizens must be willing to create their own opportunities for success. The Longford Water Company is an example of how hard work, innovation, professional management and community pride can create just such an opportunity.

Citizens throughout the First Congressional District of Kansas are working together to enhance the quality of life in their communities. Longford Water Company, LLC is a success story that demonstrates how teamwork and creative thinking can make a positive difference in rural America.

HONORING DELTA COLLEGE  
PRESIDENT DOCTOR PETER D.  
BOYSE

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. KILDEE. Mr. Speaker, Mr. CAMP, Mr. STUPAK and I rise together to pay tribute to Dr. Peter D. Boyse, a visionary educator who will retire July 31, 2005, after 17 years of dedicated service to Delta College and the community it serves. Friends and colleagues will gather June 10 to honor his dedication and his many accomplishments.

Dr. Boyse came to Delta College in July 1988 as executive vice president and became president in January 1993. During his tenure, Delta College has completed a \$26 million renovation of its computer and science laboratories, and its library, and a \$42 million renovation and addition to its Technical Trade and Manufacturing Complex. These renovations place Delta College on the cutting edge of training for tomorrow's jobs in the sciences and in manufacturing.

Delta College, which serves the people of Bay County, Midland County and Saginaw County, as well as many others from surrounding counties in Mid-Michigan, has grown to be one of our Nation's leading community colleges under the guidance of Dr. Boyse. Support for Delta College within that community is demonstrated by the passage of a renewal of an operating millage with an unprecedented 70 percent approval.

Dr. Boyse's visionary leadership has brought about growth in both the size and stature of Delta College. Through its Corporate Services arm, the college has helped people all across the United States to grow

and succeed in their careers. His influence as an administrator and a leader in the field of higher education will be felt for many years to come.

Mr. Speaker, we ask that all of our colleagues in the U.S. House of Representatives join us today in recognizing Dr. Peter D. Boyse for his exceptional leadership. His guiding hand has helped shape Delta College into a truly world class institution of higher education. We wish Dr. Boyse all the best in retirement and hope for his continued involvement in our community.

HONORING THE LIFE OF ERICH R.  
WEBER, OWNER OF WEBER'S  
BAKERY

**HON. DANIEL LIPINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the memory of a member of my community who truly exemplified the dedication and hard work required of his ancient profession.

As the longtime owner and operator of a popular Chicago neighborhood bakery, Erich R. Weber never knew an easy day.

For many years, the Chicago native would begin his workday at 2 a.m., breaking by mid-afternoon to have dinner with his family, then returning to the bakery later in the evening. Family members said that in addition to keeping the business side running, he was also the baker behind many of the pastries that disappeared quickly from the shelves.

"He was first and foremost a baker," said his son Michael. "He wore his whites every day."

Mr. Weber, age 71, the longtime owner of Weber's Bakery on the Southwest Side, died April 7, 2005.

Mr. Weber graduated from St. Rita High School in 1951. He received a bachelor's degree in baking science and management from Florida State University in Tallahassee in 1955. That same year he married his wife of 49 years, Bernadine, a fellow student.

Mr. Weber learned to bake from his father, a German immigrant, who founded the bakery in Chicago in 1930. Originally on Kedzie Avenue, the bakery moved in the 1940s to 63rd Street, and in 1979 to 7055 W. Archer Ave. in the Garfield Ridge neighborhood.

After serving 2 years in the Air Force during the late 1950s, Mr. Weber returned to Chicago, where he joined his father at the bakery. For several years, father and son served as co-presidents of the Chicago Lawn Chamber of Commerce.

"With his college background, my father brought an understanding of the business end of things," said Mr. Weber's son, Michael, who now owns and operates the bakery. "He was technology wise and willing to take chances."

Family members said that when more Hispanic residents moved into the bakery's neighborhood, Mr. Weber introduced more ethnic pastries such as tres leche cake, or three milk cake, which became popular with his customers.

"He was very good at adapting to the changing needs and times of the neighborhood, but he never gave in to trends," his son said.

The father of seven sons, including his late son, David, Mr. Weber often sought the help of family at the bakery, especially during holidays.

"One of my fondest memories is of Dad and me rolling hundreds of loaves of bread during Holy Week at Easter time, and all before the sun came up," said his son Michael. "It was a chance to be alone with him and just talk."

After retiring in 1996, Mr. Weber spent much of his time traveling with his wife and enjoying winters at his home in Naples, FL.

Mr. Speaker, I extend my heartfelt condolences to Mrs. Weber and Mike Weber, as well as Mr. Weber's five other sons, Mark, Paul, Phillip, Stephen and Kurt; his brother, Gilbert; and his 21 grandchildren.

HONORING THE CONTRIBUTIONS  
OF BARBARA KEMPER-NOLAN

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Barbara Kemper-Nolan, Saegert sixth grade teacher.

Ms. Kemper-Nolan is a sixth grade teacher specializing in resource math and language arts. She has two years of teaching experience in the Seguin Independent School District, five years as an instructional aide and one year as a substitute. With her short time at Saegert she has already started to make an impact on her students.

Ms. Kemper-Nolan has a Bachelor of Science in Psychology, a Master of Counseling from Arizona State University, and a Special Education Alternative Certification in grades prekindergarten through twelve.

When Ms. Kemper-Nolan was asked, "why would someone choose to work with some of the most challenging students who are faced with daunting intellectual and emotional obstacles," she quickly replied that "there is no greater feeling than watching the light go on in the eyes of a child, especially a child who has given up on him or herself . . . one teachable moment at a time."

Through her initiative, energy, and audacity, Ms. Kemper-Nolan proves to be an exemplary teacher, and a blessing to the people in her community. She has an excellent career ahead of her, and I wish her the best of luck.

IN MEMORY OF STAR NUCKOLLS

**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Mr. HALL. Mr. Speaker, the greatest sadness for most of us is the loss of a child, and today I want to honor the life and help preserve the memory of Star Nuckolls of Sulphur Springs, Texas, whose life ended on February 7. Star was four years old. Her life and her struggle captured the hearts of hundreds in her community and throughout the Nation, and today we celebrate the joy and inspiration she brought to so many.

Star was first diagnosed with cancer in June 2004 and received numerous medical treatments during the six months prior to her

death. Specialists at MD Anderson Medical Center in Houston performed the necessary surgery and follow-up treatments for a stage four cancer. The citizens of Sulphur Springs and members of the First Baptist Church rallied in support of Star, her parents Steve and Kari, and sister Saylor. Sean Huffman, editor of *The Christian News Monthly*, wrote and published a moving article about Star and the strength and faith demonstrated by Star's parents.

Star was a beautiful and vibrant young girl who demonstrated a capacity to live with enthusiasm and joy despite her serious illness. She never understood all that was happening to her and certainly could not comprehend the outpouring of support from friends and strangers alike. But her parents did. Their Sunday School class provided groceries so they wouldn't have to shop. Someone mowed their yard every week. Weyerhauser in Dallas donated purple stars with Star's name on them that were sold to help defray out-of-pocket medical expenses. These stars were displayed all around Sulphur Springs in a show of support. Steve and Kari's employer, Farm Bureau Insurance, donated enough to cover a weekly chemotherapy drug that was not covered by their medical insurance. And the prayers that were lifted for Star and her family are countless.

Throughout this difficult time, Kari and Steve demonstrated an unshakeable faith in God and a strength beyond belief. Star may have lost her battle with cancer, but she was victorious in life. Star unknowingly strengthened the faith of her family, brought a community together in love and support, and captured the hearts of many throughout the Nation. As we adjourn today in the House of Representa-

tives, let us do so in loving memory of the life of Star Nuckolls. May her short but remarkable life continue to bless her family and community and all those whose hearts she touched.

FIFTIETH JUBILEE OF REVEREND  
I.J. JOHNSON

**HON. MARCY KAPTUR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 26, 2005*

Ms. KAPTUR. Mr. Speaker, this month our community celebrates the fiftieth jubilee of Reverend I.J. Johnson is the pastor of St. Mark's Missionary Baptist Church in Toledo, Ohio.

Amazingly, Reverend Johnson entered the ministry at age twelve. By nineteen, he began pastoring in his home state of Alabama. He received his Bachelor of Theology degree from Easonian Baptist Seminary in Birmingham, Alabama, and served four churches until coming to Ohio in 1955. In July of that year, he was invited by Dr. Israel Walker to conduct a revival at St. Mary's Baptist Church. During this visit he met the woman who would become his wife. On August 26, 1958, Reverend Johnson and Mother Betty Rae Johnson were married. Together they raised four children: Reverend C.L. Johnson, Reverend Michael Johnson, Denisee Williams and Angela Taylor.

In October of 1955, Pastor Johnson founded and organized St. Mark's Missionary Baptist Church. Started with just three members, the church grew over the half-century to more than 2,000 souls.

Enjoying a well-earned reputation as a spiritual leader, Pastor Johnson has been invited to conduct revivals in Alabama, Georgia, Florida, Indiana, Louisiana, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, South Carolina, and Tennessee. All of this in addition to his ministry at St. Mark's. He has established a yearly fellowship with Historical First Baptist Church of Toronto, Ontario, Canada. In 1981, Pastor Johnson invited Dr. Martin Luther King Sr. to St. Mark's, at which time the first album recorded by the church choir was dedicated. The album was entitled "Our Day Will Come."

Many of our area ministers count Pastor Johnson as mentor. Perhaps the greatest testament to his nurturing ability is the fact that both of his sons are now preachers in their own right. Not only ministers, but many in our community have been beneficiaries of his counsel. Truly a community leader, Pastor Johnson served as president of the Baptist Ministers Conference for eight years. Other associations include the Fairside Community Organization, Northwestern Ohio Missionary Baptist Association, Lucas County Mental Health Board, Interracial Interfaith Committee, Evangelical Board of the National Baptist Convention, and NAACP. A welcome advisor, Reverend Johnson has also been specially recognized by our area's elected leaders.

Reverend Johnson's charismatic leadership, dynamic example, personal spirituality, and careful teachings have brought many people to live their lives in the steps of Jesus Christ. He embodies God's teachings as written in Matthew, 4:19; "Follow me, and I will make you fishers of men."

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S4225–S4349*

**Measures Introduced:** Eleven bills and five resolutions were introduced, as follows: S. 900–910, S.J. Res. 17, S. Res. 123–125, and S. Con. Res. 28.

**Pages S4257–58**

#### Measures Reported:

S. 728, to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, with amendments. (S. Rept. No. 109–61)

S. 907, to amend chapter 53 of title 49, United States Code, to improve the Nation's public transportation and for other purposes. **Page S4257**

#### Measures Passed:

**World Intellectual Property Day:** Senate agreed to S. Con. Res. 28, expressing the sense of the Congress on World Intellectual Property Day regarding the importance of protecting intellectual property rights globally. **Pages S4345–48**

**Commending University of Minnesota Golden Gophers Women's Ice Hockey Team:** Senate agreed to S. Res. 125, commending the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004–2005 National Collegiate Athletic Association Division I Women's Hockey Championship. **Pages S4348–49**

**Transportation Equity Act:** Senate agreed to the motion to proceed to consideration of H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and then began consideration of the bill, taking action on the following amendments proposed thereto:

**Pages S4230–35, S4236–37, S4237–52**

#### Adopted:

Thune Amendment No. 572 (to Amendment No. 567), to modify the section relating to National Scenic Byways to provide for the designation of Indian scenic byways. **Pages S4244–45**

#### Pending:

Inhofe Amendment No. 567, to provide a complete substitute. **Pages S4237–52**

During consideration of this measure today, Senate also took the following action:

By 94 yeas to 6 nays (Vote No. 110), 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 motion to proceed to consideration of the bill. **Page S4235**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 11:30 a.m., on Wednesday, April 27, 2005. **Page S4349**

**Messages From the House: Page S4256**

**Executive Communications: Pages S4256–57**

**Petitions and Memorials: Page S4257**

**Executive Reports of Committees: Page S4257**

**Additional Cosponsors: Pages S4258–59**

**Statements on Introduced Bills/Resolutions: Pages S4259–65**

**Additional Statements: Pages S4255–56**

**Amendments Submitted: Pages S4265–S4345**

**Authority for Committees to Meet: Page S4345**

**Privilege of the Floor: Page S4345**

**Record Votes:** One record vote was taken today. (Total—110) **Page S4235**

**Adjournment:** Senate convened at 9:45 a.m., and adjourned at 7:34 p.m., until 9:30 a.m., on Wednesday, April 27, 2005. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S4349.)

### Committee Meetings

(Committees not listed did not meet)

#### APPROPRIATIONS: DEPARTMENT OF THE TREASURY

*Committee on Appropriations:* Subcommittee on Transportation, Treasury, The Judiciary, Housing and

Urban Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2006 for the Department of the Treasury, after receiving testimony from John Snow, Secretary of the Treasury.

#### **MONEY SERVICES BUSINESSES**

*Committee on Banking, Housing, and Urban Affairs:* Committee held a hearing to review money services businesses under Bank Secrecy Act and USA PATRIOT Act regulations, focusing on federal and state efforts in the anti-money laundering area, receiving testimony from Kevin M. Brown, Commissioner, Small Business/Self-Employed Division, Internal Revenue Service, William J. Fox, Director, Financial Crimes Enforcement Network, and Julie L. Williams, Acting Comptroller of the Currency, all of the Department of the Treasury; Diana L. Taylor, New York State Banking Department, Albany; John J. Byrne, American Bankers Association, Washington, D.C.; Gerald Goldman, Financial Service Centers of America, Hackensack, New Jersey; Dan O'Malley, MoneyGram International, Inc., Minneapolis, Minnesota; and David Landsman, National Money Transmitters Association, Inc., Great Neck, New York.

Hearing recessed subject to the call.

#### **NOMINATIONS:**

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine the nominations of Maria Cino, of Virginia, to be Deputy Secretary of Transportation, who was introduced by Senators Allen and Clinton, and Phyllis F. Scheinberg, of Virginia, to be an Assistant Secretary of Transportation, who was introduced by Senator Allen, after the nominees testified and answered questions in their own behalf.

#### **TRANSPORTATION SECURITY ADMINISTRATION: BUDGET**

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine the President's proposed budget request for fiscal year 2006 for the Transportation Security Administration and related programs, after receiving testimony from Charles Barclay, American Association of Airport Executives, Alexandria, Virginia, on behalf of sundry organizations; and James C. May, Air Transport Association, Washington, D.C.

#### **NUCLEAR POWER 2010 PROGRAM**

*Committee on Energy and Natural Resources:* Committee concluded a hearing to examine the status of the Department of Energy's Nuclear Power 2010 program, which is a joint government/industry cost-shared effort to identify sites for new nuclear power plants,

develop advanced nuclear plant technologies, and demonstrate new regulatory processes leading to a private sector decision by 2005 to order new nuclear power plants for deployment in the United States in the 2010 timeframe, after receiving testimony from Clay Sell, Deputy Secretary of Energy; Nils J. Diaz, Chairman, Nuclear Regulatory Commission; and Michael J. Wallace, Constellation Generation Group, Baltimore, Maryland.

#### **WILDFIRE MANAGEMENT**

*Committee on Energy and Natural Resources:* Subcommittee on Public Lands and Forests concluded a hearing to examine the preparedness of the Department of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies ability to deal with the upcoming fire season, after receiving testimony from Mark Rey, Under Secretary of Agriculture for Natural Resources and Environment; Lynn Scarlett, Assistant Secretary of the Interior for Policy, Management, and Budget; Robin M. Nazzaro, Director, Natural Resources and Environment, Government Accountability Office; and James Caswell, Idaho Office of Species Conservation, Boise, and Kirk Rowdabaugh, Arizona State Forester, Phoenix, both on behalf of the Western Governors' Association.

#### **SOCIAL SECURITY REFORM**

*Committee on Finance:* Committee held a hearing to examine Social Security proposals to achieve sustainable solvency regarding personal accounts, receiving testimony from Peter Ferrara, Institute for Policy Innovation, and USA Next, Michael Tanner, Cato Institute Project on Social Security Change, Peter R. Orszag, The Brookings Institution, Joan Entmacher, National Women's Law Center, all of Washington, D.C.; and Robert C. Pozen, MFS Investment Management, Boston, Massachusetts.

Hearing recessed subject to the call.

#### **BUSINESS MEETING**

*Committee on Finance:* Committee ordered favorably reported the nomination of Robert J. Portman, of Ohio, to be United States Trade Representative, with the rank of Ambassador.

#### **MILLENNIUM CHALLENGE CORPORATION**

*Committee on Foreign Relations:* Committee concluded a hearing to examine the Millennium Challenge Corporation's global impact, focusing on assistance to developing countries that uphold political freedoms,

fight corruption, maintain the rule of law, and pursue sound economic policies, after receiving testimony from Paul V. Applegarth, Chief Executive Officer, Millennium Challenge Corporation; and David B. Gootnick, Director, International Affairs and Trade, General Accountability Office.

### PENSION FUND REFORM

*Committee on Health, Education, Labor, and Pensions:* Subcommittee on Retirement Security and Aging concluded a hearing to examine proposals to reform the pension funding rules and premiums payable to the Pension Benefit Guarantee Corporation, after receiving testimony from Bradley Belt, Executive Director, Pension Benefit Guarantee Corporation; Ian P. MacFarlane, Medley Global Advisors, New York, New York; Sallie B. Bailey, The Timken Company, Canton, Ohio, on behalf of the National Association of Manufacturers; and Ron Gebhardtshauer, American Academy of Actuaries, and Alan Reuther, United Auto Workers, both of Washington, D.C.

### FAIR ACT

*Committee on the Judiciary:* Committee concluded a hearing to examine S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, after receiving testimony from Judge Edward Becker, Third Circuit Court of Appeals, Philadelphia, Pennsylvania; Craig A. Berrington, American Insurance Association, John

M. Engler, National Association of Manufacturers, on behalf of the Asbestos Alliance, and Margaret Seminario, AFL-CIO, all of Washington, D.C.; James D. Crapo, National Jewish Medical and Research Center and the University of Colorado Health Sciences Center, Denver; Eric D. Green, Boston University School of Law, Boston, Massachusetts; Hershel W. Gober, Military Order of the Purple Heart, McLean, Virginia; Philip J. Landrigan, The Mount Sinai School of Medicine, New York, New York; Carol Morgan, National Service Industries, Inc., Atlanta, Georgia, on behalf of the Coalition for Asbestos Reform; Mark A. Peterson, Legal Analysis Systems, Inc., Thousand Oaks, California; Francine Rabinovitz, Hamilton, Rabinovitz, and Alschuler, Carmel, California; and Alan Reuther, United Automobile, Aerospace, and Agricultural Implement Workers of America, Lebanon, Tennessee.

### BUSINESS MEETING

*Committee on Veterans' Affairs:* Committee ordered favorably reported the nomination of Jonathan Brian Perlin, of Maryland, to be Under Secretary of Veterans Affairs for Health.

### BUSINESS MEETING

*Select Committee on Intelligence:* Committee met in closed session to consider pending intelligence matters.

Committee recessed subject to the call.

---

## House of Representatives

### *Chamber Action*

**Measures Introduced:** 54 public bills, H.R. 1813–1866; 1 private bill, H.R. 1867; and 6 resolutions, H.J. Res. 44 and H. Res. 232–234, 237–238, were introduced. **Pages H2548–50**

**Additional Cosponsors:** **Pages H2550–51**

**Reports Filed:** Reports were filed today as follows:

H. Res. 210, supporting the goals of World Intellectual Property Day, and recognizing the importance of intellectual property in the United States and worldwide (H. Rept. 109–53);

H. Res. 224, providing for the expenses of certain committees of the House of Representatives in the One Hundred Ninth Congress, amended (H. Rept. 109–54);

H. Res. 235, providing for consideration of H. Res. 22, expressing the sense of the House of Representatives that American small businesses are enti-

tled to a Small Business Bill of Rights (H. Rept. 109–55); and

H. Res. 236, providing for consideration of H.R. 748, to amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion and for other purposes (H. Rept. 109–56). **Page H2548**

**Speaker:** Read a letter from the Speaker wherein he appointed Representative Price of Georgia to act as Speaker pro tempore for today. **Page H2477**

**Recess:** The House recessed at 12:58 p.m. and reconvened at 2 p.m. **Page H2480**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

*Reauthorizing the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988:* H.R. 1158, amended, to reauthorize the

Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988; **Pages H2481–83**

*High-Performance Computing Revitalization Act of 2005:* H.R. 28, amended, to amend the High-Performance Computing Act of 1991;

**Pages H2483–87**

*Recognizing the significance of African American women in the U.S. scientific community:* H. Con. Res. 96, amended, recognizing the significance of African American women in the United States scientific community;

**Pages H2488–89**

*Recognizing the second century of Big Brothers Big Sisters:* H. Con. Res. 41, recognizing the second century of Big Brothers Big Sisters, and supporting the mission and goals of that organization;

**Pages H2489–91**

*Mayor Tony Armstrong Memorial Post Office Designation Act:* H.R. 1236, to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the “Mayor Tony Armstrong Memorial Post Office”; **Pages H2491–92**

*Ed Eilert Post Office Building Designation Act:* H.R. 1524, to designate the facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, as the “Ed Eilert Post Office Building”; **Pages H2492–93**

*Honoring the contributions of American Indians to economic innovation and society:* H. Res. 227, recognizing and honoring the contributions of American Indians to economic innovation and society generally; and **Pages H2493–95**

*Expanded Access to Financial Services Act of 2005:* H.R. 749, amended, to amend the Federal Credit Union Act to provide expanded access for persons in the field of membership of a Federal credit union to money order, check cashing, and money transfer services. **Pages H2500–03**

**Suspensions—Proceedings Postponed:** The House completed debate on the following measures under suspension of the rules. Further consideration will resume tomorrow, April 27.

*Presidential \$1 Coin Act of 2005:* H.R. 902, amended, to improve circulation of the \$1 coin, create a new bullion coin; and **Pages H2495–H2500**

*Sense of Congress regarding the two-year anniversary of the human rights crackdown in Cuba:* H. Con. Res. 81, expressing the sense of Congress regarding the two-year anniversary of the human rights crackdown in Cuba. **Pages H2503–06**

**Emergency Supplemental Wartime Appropriations Act—Motion to go to Conference:** The House disagreed to the Senate amendments to H.R.

1268, making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and agreed to a conference.

**Pages H2506–09, H2518–19**

Agreed to the Obey motion to instruct conferees by a yea-and-nay vote of 417 yeas to 4 nays, Roll No. 133.

**Pages H2507–09, H2518–19**

Appointed as conferees: Representatives Lewis (CA), Young (FL), Regula, Rogers (KY), Wolf, Kolbe, Walsh, Taylor (NC), Hobson, Bonilla, Knollenberg, Obey, Murtha, Dicks, Sabo, Mollohan, Visclosky, Lowey, and Edwards. **Page H2520**

**Recess:** The House recessed at 4:57 p.m. and reconvened at 5:37 p.m. **Page H2509**

**Budget Resolution for Fiscal Year 2006—Motion to go to Conference:** The House disagreed to the Senate amendments to H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, and agreed to a conference.

**Pages H2509–18, H2519–20**

Agreed to the Herseth motion to instruct conferees by a yea-and-nay vote of 348 yeas to 72 nays, Roll No. 134.

**Pages H2509–18, H2519–20**

Appointed as conferees: Representatives Nussle, Ryun (KS), and Spratt. **Page H2520**

**Ticket to Work and Work Incentives Advisory Panel—Appointment:** The Chair announced the Speaker's appointment of Mr. J. Russell Doumas of Columbia, Missouri to the Ticket to Work and Work Incentives Advisory Panel for a four-year term.

**Page H2520**

**Permitting Official Photographs of the House in session:** The House agreed to H.Res. 232, permitting official photographs of the House of Representatives to be taken while the House is in actual session on a date designated by the Speaker. **Page H2520**

**United States Capitol Preservation Commission—Appointment:** The Chair announced the Speaker's appointment of the following Members to the United States Capitol Preservation Commission: Representatives Lewis (CA), and Shuster. **Page H2535**

**United States Capitol Preservation Commission—Appointment:** Read a letter from Minority Leader Pelosi wherein she appointed Representative Kaptur to the United States Capitol Preservation Commission. **Page H2535**

**Senate Message:** Message received from the Senate today appears on page H2480.



**Senate Referral:** S. 893 was referred to the Committees on Energy, Commerce, and the Judiciary.

Page H2547

**Quorum Calls—Votes:** Two yea-and-nay votes developed during the proceedings today and appear on pages H2518–19 and H2919–20. There were no quorum calls.

**Adjournment:** The House met at 12:30 p.m. and adjourned at 10:44 p.m.

## Committee Meetings

### DEPARTMENTS OF TRANSPORTATION, TREASURY, AND HUD, THE JUDICIARY, DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies held a hearing on the U.S. Postal Service and on the National Archives and Records Administration. Testimony was heard from John E. Potter, Postmaster General, U.S. Postal Service; and Allen Weinstein, Archivist, National Archives and Records Administration.

### SCIENCE, THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Science, The Departments of State, Justice, and Commerce, and Related Agencies held a hearing on the FCC. Testimony was heard from Kevin J. Martin, Chairman, FCC.

### UNDERACHIEVING SCHOOLS

*Committee on Education and the Workforce:* Held a hearing on No Child Left Behind: Supplemental Tutoring for Children in Underachieving Schools. Testimony was heard from Donn Nola-Ganey, Assistant Superintendent, Office of School and Community Support, Department of Education, State of Louisiana; Beth Swanson, Director, Office of After School and Community Programs, Public Schools, Chicago, Illinois; and public witnesses.

### ILLEGAL DRUG USE PREVENTION

*Committee on Government Reform:* Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing entitled “Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention?” Testimony was heard from Charles Curie, Administrator, Substance Abuse and Mental

Health Services Administration, Department of Health and Human Services; and public witnesses.

### COMMUNITY DEVELOPMENT BLOCK GRANT FORMULA

*Committee on Government Reform:* Subcommittee on Federalism and the Census held a hearing entitled “The 70’s Look: Is the Decades-Old Community Development Block Grant Formula Ready for an Extreme Makeover?” Testimony was heard from Roy A. Bernardi, Deputy Secretary, Department of Housing and Urban Development; and the following officials of the GAO: Paul Posner, Director, Federal Budget and Intergovernmental Relations; and Jerry C. Fastrup, Assistant Director, Applied Research and Methods; and a public witness.

### HOMELAND SECURITY INFORMATION SHARING AND ENHANCEMENT ACT OF 2005

*Committee on Homeland Security:* Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment approved for full Committee action the Homeland Security Information Sharing and Enhancement Act of 2005.

### MALARIA AND TB: IMPLEMENTING PROVEN TREATMENT AND ERADICATION METHODS

*Committee on International Relations:* Subcommittee on Africa, Global Human Rights and International Operations held a hearing on Malaria and TB: Implementing Proven Treatment and Eradication Methods. Testimony was heard from Mark Dybul, M.D., Assistant U.S. Global AIDS Coordinator and Chief Medical Officer; Department of State; Michael Miller, Deputy Assistant Administrator, Bureau for Global Health, U.S. AID; and public witnesses.

### VE DAY ANNIVERSARY RESOLUTIONS

*Committee on International Relations:* Subcommittee on Europe and Emerging Threats approved for full Committee action the following resolutions: H. Res. 195, amended, Recognizing the 60th anniversary of Victory in Europe (VE) Day and the Liberation of Western Bohemia; and H. Res. 233, Recognizing the 60th anniversary of Victory (V-E) Day during World War II.

### OVERSIGHT—U.S. PATRIOT ACT IMPLEMENTATION

*Committee on the Judiciary:* Subcommittee on Crime, Terrorism, and Homeland Security held an oversight hearing on the Implementation of the USA PATRIOT Act: Sections of the Act that Address-Foreign Intelligence Surveillance Act (FISA). (Part 1)-Section 204: Clarification of Intelligence Exceptions

from Limitations on Interception and Disclosure of Wire, Oral, and Electronic Communications; Section 207: Duration of FISA Surveillance of Non-United States Persons who are Agents of a Foreign Power; Section 214: Pen Register and Trap and Trace Authority Under FISA; Section 225: Immunity for Compliance with FISA Wiretap; and Lone Wolf. Testimony was heard from May Beth Buchanan, U.S. Attorney, Western District of Pennsylvania; James A. Baker, Counsel, Intelligence Policy, Department of Justice; and a public witness.

#### SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

*Committee on the Judiciary:* Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on H.R. 1751, Secure Access to Justice and Court Protection Act of 2005. Testimony was heard from Judge Jane R. Roth, Chairwoman of Judicial Conference Committee on Security and Facilities; Judge Cynthia Kent, 114th Judicial District Court of Texas; and the following officials of the Eastern District of Virginia: Paul J. McNulty, U.S. Attorney; and John F. Clark, U.S. Marshal.

#### NATIONAL FISH AND WILDLIFE FOUNDATION REAUTHORIZATION ACT OF 2005

*Committee on Resources:* Subcommittee on Fisheries and Oceans held a hearing on H.R. 1428, National Fish and Wildlife Foundation Reauthorization Act of 2005. Testimony was heard from Timothy R.E. Keeney, Deputy Assistant Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; Matthew J. Hogan, Acting Director, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

#### CHILD INTERSTATE ABORTION NOTIFICATION ACT

*Committee on Rules:* Granted, by a vote of 9 to 4, a structured rule providing one hour of general debate on H.R. 748, Child Interstate Abortion Notification Act, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule 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. The rule makes in order only those amendments printed in the rules Committee report accompanying the resolution. The rule 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 consid-

ered 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 a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Sensenbrenner and Representatives Ros-Lehtinen, Nadler, Scott of Virginia, Jackson-Lee of Texas, Waters, and Harman.

#### SENSE OF THE HOUSE RESOLUTION— SMALL BUSINESS BILL OF RIGHTS

*Committee on Rules:* Granted, by voice vote, a closed rule providing one hour of debate on H. Res. 22, expressing the sense of the House of Representatives that American small business are entitled to a Small Business bill of Rights, in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. The rule waives all points of order against consideration of the resolution. The rule provides that the amendments to the resolution and the preamble recommended by the Committee on Small Business now printed in the resolution are considered as adopted. The rule provides one motion to recommit, which may not contain instructions. Testimony was heard from Representatives Keller, Barrow, Bean, and McGovern.

---

#### COMMITTEE MEETINGS FOR WEDNESDAY, APRIL 27, 2005

*(Committee meetings are open unless otherwise indicated)*

##### Senate

*Committee on Agriculture, Nutrition, and Forestry:* to hold hearings to examine the nominations of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation, 10:30 a.m., SR-328A.

*Committee on Appropriations:* Subcommittee on Defense, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Defense, 10 a.m., SD-192.

Subcommittee on Legislative Branch, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Sergeant at Arms, the U.S. Capitol Police Board, and the Capitol Guide Service, 11 a.m., SD-124.

*Committee on Health, Education, Labor, and Pensions:* business meeting to consider S. 655, to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention, and S. 898, 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, 10 a.m., SD-430.

*Committee on Homeland Security and Governmental Affairs:* to hold hearings to examine how vulnerable the U.S. is to chemical attack, 10 a.m., SD-562.

*Committee on Indian Affairs:* to hold oversight hearings to examine regulation of Indian gaming, 9:30 a.m., SR-485.

*Committee on the Judiciary:* to hold hearings to examine the nomination of Paul D. Clement, of Virginia, to be Solicitor General of the United States, Department of Justice, 9:30 a.m., SD-226.

*Committee on Rules and Administration:* business meeting to mark up S. 271, to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, 9:30 a.m., SR-301.

*Select Committee on Intelligence:* to resume hearings to examine the USA Patriot Act, 9:30 a.m., SH-216.

*Special Committee on Aging:* to hold hearings to examine redefining retirement in the 21st century workplace, 10 a.m., SD-G50.

### House

*Committee on Agriculture, Subcommittee on Conservation, Credit, Rural Development and Research and the Subcommittee on General Farm Commodities and Risk Management,* joint hearing to Review the impact of Asia Soybean Rust on the U.S. farm sector, 11 a.m., 1300 Longworth.

*Committee on Appropriations, Subcommittee on the Department of Labor, Health and Human Services, Education, and Related Agencies, on Substance Abuse and Mental Health Services Panel: SAMHSA, NIDA, NIMH, and NIAAA,* 10:15 a.m., 2358 Rayburn.

*Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, on Federal Railroad Administration and AMTRAK,* 10 a.m., 2358 Rayburn.

*Subcommittee on Foreign Operations, Export Financing, and Related Programs, on State Department FY 2006 Budget Request,* 2 p.m., 2359 Rayburn.

*Committee on Energy and Commerce, Subcommittee on Health,* hearing entitled "Long-Term Care and Medicaid: Spiraling Costs and the Need for Reform," 10 a.m., 2123 Rayburn.

*Subcommittee on Telecommunications and the Internet,* hearing on How Internet Protocol-Enabled Services Are Changing the Face of Communications: A View from Government Officials, 1:30 p.m., 2322 Rayburn.

*Committee on Financial Services,* to consider the following measures: H.R. 1768, To amend the provision of law establishing the Presidential 9/11 Heroes Medals of Valor to make certain technical corrections to carry out the intent of the provision; H.R. 358, Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act; H.R. 1185, Federal Deposit Insurance Reform Act of 2005; H.R. 1224, Business Checking Freedom Act of 2005; and H.R. 68, NASA and JPL 50th Anniversary Commemorative Coin Act. 10 a.m., 2128 Rayburn.

*Committee on Government Reform,* to continue hearings on Steroid Use in Sport Part II: Examining the National

Football League's Policy on Anabolic Steroids and Related Substances, 10 a.m., 2154 Rayburn.

*Committee on Homeland Security,* to consider H.R. 1817, Department of Homeland Security Authorization Act for Fiscal Year 2006, 10 a.m., 2118 Rayburn.

*Committee on International Relations,* to mark up the following measures: H. Con. Res. 127, Calling on the Federal Republic of Nigeria to transfer Charles Ghankay Taylor, former President of the Republic of Liberia, to the Special Court for Sierra Leone to be tried for war crimes, crimes against humanity, and other serious violations of international humanitarian law; H. Res. 195, Recognizing the 60th anniversary of Victory in Europe (VE) Day and the Liberation of Western Bohemia; H. Res. 233, Recognizing the 60th anniversary of Victory in Europe (V-E) Day during World War II; H. Res. 193, Expressing support to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, in Havana; and H. Res. 228, Observing the 30th anniversary of the fall of the Republic of Vietnam to the Communist forces of North Vietnam; followed by a hearing on Millennium Challenge Account: Does the Program Match the Vision? 11 a.m., 2172 Rayburn.

*Subcommittee on Europe and Emerging Threats,* hearing on Islamic Extremism in Europe, 1 p.m., 2172 Rayburn.

*Committee on the Judiciary,* to continue markup of H.R. 800, Protection of Lawful Commerce in Arms Act; and to mark up H.R. 554, Personal Responsibility in Food Consumption Act, 10 a.m., 2141 Rayburn.

*Committee on Resources,* oversight hearing entitled "Tribal proposals to acquire land-in-trust for gaming across state lines and how such proposals are affected by the off-reservation discussion draft bill," 10 a.m., 1324 Longworth.

*Subcommittee on Forests and Forest Health,* oversight hearing on Reforestation Problems on National Forests: A GAO Report on the Increasing Backlog, 2 p.m., 1324 Longworth.

*Committee on Science, Subcommittee on Energy,* hearing on Science and Technology Priorities for the Department of Energy in Fiscal Year 2006, 10 a.m., 2318 Rayburn.

*Committee on Small Business,* hearing entitled "Closing the Tax Gap and the Impact on Small Businesses, 2 p.m., 311 Cannon.

*Committee on Transportation and Infrastructure,* to consider the following measures: H.R. 889, Coast Guard and Maritime Transportation Act of 2005; H.R. 1410, Delaware River Protection Act of 2005; H.R. 1496, To return general aviation to Ronald Reagan Washington National Airport; H.R. 1630, Amtrak Reauthorization Act of 2005; and H.R. 1631, Rail Infrastructure Development and Expansion Act for the 21st Century, 11 a.m., 2167 Rayburn.

### Joint Meetings

*Conference:* meeting of conferees on H.R. 1268, making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, 4 p.m., HC-5, Capitol.

## Next Meeting of the SENATE

9:30 a.m., Wednesday, April 27

## Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, April 27

## Senate Chamber

**Program for Wednesday:** After the transaction of any routine morning business (not to extend beyond 120 minutes), Senate will continue consideration of H.R. 3, Transportation Equity Act.

## House Chamber

**Program for Wednesday:** Consideration of Suspensions:

- (1) H. Res. 224, providing for the expenses of certain committees of the House of Representatives in the One Hundred and Ninth Congress; and
- (2) H. Res. 210, supporting the goals of World Intellectual Property Day and recognizing the importance of intellectual property in the United States and worldwide.

Consideration of H.R. 748, Child Interstate Abortion Notification Act (subject to a rule).

Consideration of H. Res. 22, expressing the Sense of the House that American small businesses are entitled to a small business bill of rights (subject to a rule).

## Extensions of Remarks, as inserted in this issue

## HOUSE

Andrews, Robert E., N.J., E767  
 Bilirakis, Michael, Fla., E774  
 Blumenauer, Earl, Ore., E763  
 Burgess, Michael C., Tex., E758  
 Burton, Dan, Ind., E770  
 Clay, Wm. Lacy, Mo., E757, E760  
 Cuellar, Henry, Tex., E763, E764, E766, E767, E769,  
 E770, E771, E773, E774, E775  
 Cunningham, Randy "Duke", Calif., E764  
 DeLauro, Rosa L., Conn., E757, E761  
 Farr, Sam, Calif., E762  
 Filner, Bob, Calif., E767  
 Fortenberry, Jeff, Nebr., E773

Frank, Barney, Mass., E758  
 Goodlatte, Bob, Va., E767  
 Green, Mark, Wisc., E766  
 Hall, Ralph M., Tex., E766, E770, E775  
 Holt, Rush D., N.J., E760  
 Kaptur, Marcy, Ohio, E765, E776  
 Kildee, Dale E., Mich., E775  
 Lipinski, Daniel, Ill., E763, E775  
 Lofgren, Zoe, Calif., E759  
 Meehan, Martin T., Mass., E759  
 Menendez, Robert, N.J., E760  
 Moore, Dennis, Kans., E767  
 Moran, James P., Va., E761, E762  
 Moran, Jerry, Kans., E774  
 Ney, Robert W., Ohio, E760

Oberstar, James L., Minn., E768  
 Pallone, Frank, Jr., N.J., E762  
 Pryce, Deborah, Ohio, E757  
 Rahall, Nick J., II, W.Va., E771  
 Sanders, Bernard, Vt., E761  
 Schakowsky, Janice D., Ill., E771  
 Schwarz, John J.H. "Joe", Mich., E758  
 Tauscher, Ellen O., Calif., E766  
 Tierney, John F., Mass., E765, E769  
 Udall, Mark, Colo., E769  
 Van Hollen, Chris, Md., E762  
 Wu, David, Ore., E763  
 Young, Don, Alaska, E759



# Congressional Record

printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the *Congressional Record* is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the *Congressional Record* is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through *GPO Access* at [www.gpo.gov/gpoaccess](http://www.gpo.gov/gpoaccess). Customers can also access this information with WAIS client software, via telnet at [swais.access.gpo.gov](http://swais.access.gpo.gov), or dial-in using communications software and a modem at 202-512-1661. Questions or comments regarding this database or *GPO Access* can be directed to the *GPO Access* User Support Team at: E-Mail: [gpoaccess@gpo.gov](mailto:gpoaccess@gpo.gov); Phone 1-888-293-6498 (toll-free), 202-512-1530 (D.C. area); Fax: 202-512-1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The *Congressional Record* paper and 24x microfiche edition will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, \$252.00 for six months, \$503.00 per year, or purchased as follows: less than 200 pages, \$10.50; between 200 and 400 pages, \$21.00; greater than 400 pages, \$31.50, payable in advance; microfiche edition, \$146.00 per year, or purchased for \$3.00 per issue payable in advance. The semimonthly *Congressional Record Index* may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: [bookstore.gpo.gov](http://bookstore.gpo.gov). Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, or phone orders to 866-512-1800 (toll free), 202-512-1800 (D.C. area), or fax to 202-512-2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily *Congressional Record* is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the *Congressional Record*.

**POSTMASTER:** Send address changes to the Superintendent of Documents, *Congressional Record*, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.