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House of Representatives

The House met at 10 a.m.

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

Children all across this country join us as we pray today.

Lord God, again we pray for the protection of the Nation's Capitol and the prevention of any terrorist attack upon this land.

We also praise and thank You, Lord, for the Capitol Police, the medical staff, and all who worked at the orderly evacuation of this honored place yesterday.

Preserve our liberty, free us from fear, and grant us triumph over every evil.

Throughout our history, You have called forth leaders. Bless now the women and men who assemble as the 109th Congress of the United States of America. Help them to know what is right and enable them to make choices that will unite the Nation, both in prosperity and moral integrity.

May they truly represent the needs and the genius of the people they serve.

May they prove by their actions their personal strength of character and faith in You, our God and Father of all.

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 Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). The Chair will entertain 10 one-minute speeches on each side.

HONORING FLORENCE NIGHTINGALE AND OUR NATION'S NURSES

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

Mr. BURGESS. Mr. Speaker, it is May 12, and May 12 is a special day because that is the day that the lady with the lamp, Florence Nightingale, was born in 1820. Florence Nightingale, the founder of modern nursing, the woman who found that cleanliness and hygiene had an effect on wound healing, actually helped wound healing and transformed military medicine back in the 1800s.

This day is also the last day of National Nurses Week, and nursing tells us over and over again what we all in this Congress need to know: it is time to value health. We cannot afford to simply pay for disease any longer.

The American Nurses Association is working to chart a new course for a healthy Nation that relies on the increasing delivery of primary and preventive health care and a renewed emphasis on primary and preventive health care that will require better utilization of our Nation's resources.

Professional nursing has been demonstrated to be an indispensable component for the safety and quality of care of hospitalized patients.

Mr. Speaker, it is with great pride that I recognize the Nation's 2.7 million registered nurses.

ABUSE OF POWER IN CONGRESS

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

Mr. INSLEE. Mr. Speaker, the long string of abuse of power is continuing in the U.S. Congress, most unfortunately. The most recent of this long string of abuses of power is we will see an attempt in the U.S. Senate next week to strip Americans of a protection, a protection against the tyranny of the majority, by eliminating the long, 2-century-long right to a filibuster in the United States Senate, a bastion of democracy.

We already have one House of Representatives. We do not need another one. We need the ability to have the checks and balances in the U.S. Senate. And this is not a matter of academic pursuit.

Last night, I was in the Mall walking quite late at night and I saw a group of folks from New Jersey who had driven all the way down from New Jersey and at this moment are filibustering on the Mall against the efforts in the Senate to remove this basic checks and balances. They drove what they called the ''Filibus.'' Well, we should not have to have a ''Filibus'' to stand up for the American concept of checks and balances. These abuses of power should stop. The U.S. Senate should maintain this American tradition of a filibuster for the right time and for the right reasons.

MARIETTA, GEORGIA SUPPLEMENTAL PENSION PLAN

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

Mr. PRICE of Georgia. Mr. Speaker, in 1981 as the Social Security system was on the verge of collapse, many cities and counties decided to opt out of the Social Security system. My own

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district, the city of Marietta, Georgia, took the opportunity; and the results serve as a model for the tremendous potential of personal retirement accounts.

Rather than collecting 1.5 percent from Social Security like the rest of us, Marietta city employees have personal accounts with yearly rates of return ranging from 3 to 20 percent.

The results go far beyond the rates of return. Employees' paychecks are higher than the surrounding cities because only 6.1 percent is taken out of their paychecks, as opposed to 12.4 percent.

Think it does not get any better? Well, it does.

Employees are continually educated about the program, the choices that they have, and how the company administering their pensions makes decisions. Because of this education program, employees are allowed to direct where their money goes depending on the rates of return and their personal goals.

Mr. Speaker, the tremendous potential of personal retirement accounts has been realized by some in my district. Let us hope the rest of the country is able to realize the true benefits of personal retirement accounts some time soon.

WE ARE A NATION AT WAR

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

Mr. KUCINICH. Mr. Speaker, in moments like yesterday, we are one in support for each other's safety and well-being. Thankfully, it was an error by the pilot of a small plane.

The White House's response was telling: ''We have to remember we are a Nation at war.''

We are. But at war against Iraq. Iraq did not attack us. Iraq had nothing to do with 9/11. We may well be proving that the best way to avoid a war is not to wage one.

Einstein said the significant problems we have cannot be solved at the same level of thinking with which we created them. Does the war against Iraq make us safer or less safe?

After spending $420 billion annually for the military and an additional $270 billion for the war in Iraq, why are we still running for the exits? Has the so-called war on terror made us less safe?

We all want safety and security for ourselves, our loved ones, our Nation, and the world. But there has to be a better way than war. One of our greatest Presidents, Franklin Roosevelt, knew this and he knew war. He concluded: ''If civilization is to survive, we must cultivate the science of human relationships, the ability of all peoples of all lands to live together and to work together in the same world at peace.''

THE GROWING ECONOMY

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

Mr. CONAWAY. Mr. Speaker, I would like to point out that we are experiencing a growing economy in this country, a growing economy which creates jobs. Figures just released show that 274,000 additional jobs were created in this economy this last month. That is 274,000 families that are better off because they are working. They have also revised the figures to show that 93,000 additional jobs were created in February and March.

I participated in a needs assessment in Midland, Texas, back in the early 1990s, a process about figuring out what was going on within those communities. We came up with the top 10 needs that the folks in Midland, Texas, told them about. Nine of those top 10 needs would have been positively impacted by a job. And so we have now created 274,000 jobs.

The economy grew at 3.1 percent during the first quarter of this year. We continue to experience a growing economy led by the pro-growth policies of this administration and this House and this Senate.

REPUBLICAN ABUSE OF POWER

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, Senate Republicans are preparing to blow up 200 years of tradition in the U.S. Senate, abusing their power in order to force through a few judges who have been unable to earn a bipartisan consensus for their lifetime judicial appointments.

Democrats have helped confirm 95 percent of President Bush's judicial nominees. The few that our Democratic colleagues in the Senate have opposed are those who have had serious questions raised about their independence, fairness, and record on issues involving our most vital rights.

Republicans are willing to attack the constitutional system of checks and balances and change the rules of the Senate in the middle of the game, all of this for seven extreme judges.

Senate Republicans know full well the impact their nuclear option will have on the bipartisanship that is necessary for a productive and effective Senate, but they simply do not care. If Senate Republicans are successful at abolishing the rights of the minority, what is next?

EXTENDING FREEDOM TO BELARUS

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

Mr. SHIMKUS. Mr. Speaker, I rise today to speak in support of the country of Belarus and their ongoing struggle for fair and free elections. The last dictator in Europe, Aleksander Lukashenko, rules this country through a combination of intimidation and fear. He is suppressing the voices and rights of the Belarusian people as they watch their neighbors in Georgia and Ukraine rise up and take back their countries and emerge as thriving democracies.

As President Bush said in his visit to Riga, Latvia, ''All the nations that border Russia will benefit from the spread of democratic values, and so will Russia itself. Together, we have set a firm and confident standard. Repression has no place on this continent.''

I have had the privilege of meeting with the opposition party representatives from Belarus several times. It is inspiring to see these men and women from every political ideology come together with a unified goal, to let the Belarusian people decide for themselves who should lead their country, rather than have it forced upon them by Lukashenko's regime.

As co-chairman of the House Baltic Caucus, it is my hope that the United States Congress will stand with our friends in Eastern Europe and support all efforts to bring democracy, freedom, and the rule of law to this part of the world.

REPUBLICAN ABUSES OF POWER

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, congressional Republicans continue to abuse their power here on Capitol Hill. Rather than trying to mend fences and work in a bipartisan fashion, they instead choose a very partisan course.

Here in the House, for example, the Republican leadership ignored protocol and expedited weakened ethics rules through the House without ever consulting the Democrats. Everyone here knows that ethics changes cannot be successful unless both parties play a role.

And now, Republicans in the other body, not to be outdone by their counterparts here in the House, plan to change the rules on the filibuster that have been in place for more than 200 years, rules that give the minority a voice in Washington. Talk about an extreme abuse of power.

Mr. Speaker, Republican attempts to do away with the filibuster is the last check, really, on the one-party rule here in Washington. Simply, this is not the way to end the divisive tone here. When are the Republicans going to learn that their absolute power here on Capitol Hill is really corrupting their every action?

We talk about spreading democracy abroad. Let us begin by preserving it here at home.

EVENTS OF YESTERDAY

(Mr. PENCE asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, yesterday at noon was so much like September 11. Mr. Speaker, I was standing on the House floor with our majority leader as I saw Members beginning to hurry out of this Chamber.

As I exited the House, an F–16 literally flashed across the sky as thousands yesterday, as that day in 2001, streamed from the Capitol into the sunlight of uncertain moments and an undefined threat.

So much was the same, but so much has really changed. On September the 11 evacuation was largely disorganized and spontaneous. But yesterday, thanks to the extraordinary leadership of the United States Capitol Police; Bill Livingood, the House Sergeant at Arms; and Police Chief Terence Gainer, 25,000 public officials and personnel were evacuated from the Capitol and buildings around Capitol Hill in less than 6 minutes in an intense, but orderly, manner.

□ 1015

It is an extraordinary comfort, I know, to millions of Americans who know that whatever the day may bring in our Nation's capital, thanks to the leadership and the security officials here on Capitol Hill, and the Department of Homeland Security, our national government is ready.

THIRTY YEARS LATER HELP THE HMONG STILL IN LAOS

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

Ms. MOORE of Wisconsin. Mr. Speaker, I rise on the occasion of the 30th anniversary of America pulling out of the Vietnam war.

Mr. Speaker, I rise in horror at the continued atrocities against the Hmong folk who now reside in the jungles of Laos. Like a cheap date, a one-night stand, we abandoned our brethren who fought along with the CIA, and they were forced to flee into the jungle. Reports of rapes, mass killings, use of biological weapons have gone uninvestigated.

Mr. Speaker, I call upon the State Department to press Laos to immediately pull back its troops, grant international human rights monitors and workers access to the Hmong community and allow them to peacefully settle.

Mr. Speaker, we cannot stand by and abandon our fellow soldiers in the Vietnam war.

BAIT AND SWITCH ON STEM CELLS

(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, in the coming weeks, some will say that they only want to use Federal funds to destroy human embryos stored in IVF clinics for stem cell research. This is a skilled use of the bait-and-switch tactic.

First, these embryos are not primed for research; they are primed for adoption. Eighty-one embryos have been adopted today with dozens more on the way, called ''snowflake adoptions.'' Researchers who support embryonic stem cell research acknowledge that these IVF embryos will not provide near the desired type or number of stem cell lines demanded by the biotech industry and admit that they will not be genetically diverse. In order to get that sample and overcome that rejection, they will need to clone human embryos. Advocates have admitted as much on this floor in the Chamber.

The ultimate goal of researchers is free and unfettered access to Federal dollars to create, clone and destroy human embryos for lab experiments. Congress should instead focus on supporting adult stem cell research, which has been proven to work successfully, is not morally controversial, and holds true promise for disease victims. We should not kill to harvest an experiment.

REPUBLICAN ABUSE OF POWER

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

Mr. CLEAVER. Mr. Speaker, we should always be cautious in this quest for absolute power here in Washington. This was not the vision of our Founding Fathers.

Today, we are dealing with a manufactured judicial crisis. Since President George Bush took office, the Senate has confirmed a whopping 208 of his judicial nominations and turned back only 10. That, my friends, is a 95 percent confirmation rate. That rating is the highest approval rating of any President in modern times, including Ronald Reagan and Bill Clinton. Thanks to these confirmations, the President presides over the lowest court vacancy rate since Ronald Reagan was President.

Congratulations, Mr. President.

Instead of accepting that success and avoiding further divisiveness and partisanship here in Washington, my hope is that our President will not add to the current bitterness here and around the Nation by resubmitting the names of rejected nominees again this year.

EXPRESSING GROWING CONCERNS ABOUT A GATHERING LEFTIST STORM IN LATIN AMERICA

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

Mr. MACK. Mr. Speaker, I rise today to express my strong concern about a gathering storm that poses a real threat to freedom, security and prosperity throughout the Western Hemisphere.

At the center of this storm is Venezuelan President Hugo Chavez, who is fanning the flames of leftist, anti-American, anti-freedom movements that are fostering regional instability.

In the years since he took office as a democratically-elected leader, Chavez has moved sharply away from those ideals. He has stacked the government with judges and allies to implement his own personal will. He has cracked down on the freedom of the press. He is financing a State-run television network patterned after Al Jazeera to spread his propaganda far and wide, and he has forged a dangerous alliance with Fidel Castro.

Mr. Speaker, Hugo Chavez fancies himself as a modern Simon Bolivar, who wanted to unite Latin America into one Nation. Hugo Chavez is trying to alter the balance of power in our hemisphere. The United States must take this growing threat seriously.

REPUBLICAN ABUSE OF POWER IN SENATE

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

Ms. MATSUI. Mr. Speaker, the power grab Senate Republicans are about to take is not about seven judges; it is about clearing the way for a Supreme Court nominee who only needs 51 votes instead of 60 votes.

Senate Republicans do not want a David Souter, an Anthony Kennedy, a Sandra Day O'Connor, a Ruth Bader Ginsberg or a Steven Breyer, all of whom were confirmed with nearly unanimous, bipartisan support.

If President Bush is successful with this extreme power grab in the Senate, he will be able to appoint extreme, right-wing judges to the court.

President Bush wants to turn the Senate into a second House of Representatives, rubber-stamping his agenda, and that is simply not what our Founding Fathers envisioned when they created two distinctly different congressional chambers.

Mr. Speaker, Democrats will fight to protect our constitutional checks and balances and basic fairness for the American people.

THE BULGARIAN MIRACLE CONTINUES

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

Mr. WILSON of South Carolina. Mr. Speaker, on Tuesday I was in Sofia, Bulgaria, on a delegation with the gentlewoman from Guam (Ms. BORDALLO). I saw firsthand the Bulgarian miracle of a dynamic democracy, a partner with America on the war on terrorism, and a thriving and robust economy providing jobs for young people.

During my first visit 15 years ago to Bulgaria with the International Republican Institute, I witnessed a dying Communist State frozen in time. Today, Bulgaria is a valued member of NATO and soon to be admitted to the EU.

The Bulgarian people are proving themselves to be courageous and capable to meet the challenges of political, defense and economic transformation.

I want to thank my hosts Tuesday of the enthusiastic economic team of Prime Minister Simeon Saxe-Coburgi Gotha, Foreign Minister Solomon Passy and President Georgi Purvanov. Also, America is well represented in Bulgaria by Ambassador Jim Pardew and his gracious wife Kathy.

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

DEMOCRATS WILL FIGHT REPUBLICAN ABUSE OF POWER IN SENATE

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

Ms. SLAUGHTER. Mr. Speaker, the congressional Republican abuses of power continue in the Senate where Senator FRIST is preparing to change the Senate rules for the first time in 200 years.

Senator FRIST and Senate Republicans are waging an unprecedented political power grab. They are changing the rules in the middle of the game and attacking our historic system of checks and balances so they can ram through a small number of judicial nominees who otherwise cannot achieve consensus because of their poor record of protecting individual rights.

Our House Democrats join our colleagues in the Senate committed to fight this Republican abuse of power. We will protect the role of the judiciary as the guardian of the rights of all Americans, assuring that all judges who are confirmed in the Federal courts be as intellectually honest and fair as possible, rather than ruling just on one side of one interest.

Drunk with power, rewriting the rules is what has been happening in Washington the most in recent years. The House Republican leadership tried to weaken the House ethics rules to protect one of their own, and they failed. Let us not let the Senate do the same.

CONGRATULATING ELEVENTH DISTRICT HIGH SCHOOLS

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

Mr. GINGREY. Mr. Speaker, I rise today in praise of three very impressive schools in my district, Columbus High School, LaGrange High School, and Campbell High School, which were selected by Newsweek magazine among the top high schools in America.

To have three Eleventh District schools included on this prestigious list speaks to the dedication and accomplishments of our district's educators, students, and community members.

As the former chairman of the Marietta City School Board, I know the great work that goes on in our school districts. I am glad the rest of the Nation finally knows about it as well.

LaGrange High School has a long tradition of providing students with the kind of education that truly helps our children succeed in life.

Columbus High School traces its history back to the 1890s, so it is no wonder the school is a perennial education all-star; practice makes perfect.

Campbell High School has upheld the standard of excellence in Cobb County for years, its teachers, staff, and students showing a relentless ambition for achievement, and, just last week, hosted our Vice President for a discussion on Social Security.

Mr. Speaker, I ask that my colleagues join me in congratulating these schools.

AMERICAN PEOPLE SUPPORT FILIBUSTER

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

Mr. PALLONE. Mr. Speaker, I just want to stress that the protection of the filibuster is something that the American people support.

I heard one of my colleagues just a few minutes ago talk about the New Jersey filibuster which is down here at the Mall with a group of people who are trying to make the point that we must protect the filibuster. We should not repeal it as the Republicans want to do, because it does protect minority rights. It protects individual freedoms in terms of making sure that justices and judges that are appointed are those that have a consensus.

I want to say that, in my State, it is not just the people involved in the New Jersey filibuster; a lot of other people have expressed their concern on this issue. Just a week or two ago, I was at Princeton University outside the Frist Student Center, and the students there at Princeton University were conducting a 24-hour filibuster which went on for almost 2 weeks, I think it may still be going on, because they felt so strongly about this issue. They feel strongly about it because it has been around for so long. It is over 200 years now that the Senate rules have provided for a filibuster, and that is what our Founding Fathers wanted, because they did not want an abuse of power. They did not want the majority to be the absolute rule.

PRAISING AMERICA'S SMALL BUSINESS OWNERS

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

Mrs. BLACKBURN. Mr. Speaker, today I rise to praise America's small business owners. They really are our Nation's economic engine, and these small business owners and our Nation's employers are doing a great job with this free enterprise system that we enjoy.

Mr. Speaker, there is good news about the economy that is out. In April, this economy created 274,000 new jobs. Also in April, we saw that retail sales exceeded projections. We thought we would have a .7 percent retail sales growth; in fact, we had a 1.4 percent retail sales growth.

Mr. Speaker, it just shows that manufacturing numbers are up. Capital investment is up. Manufacturing investment and output is up. The economy is at work, and it is working for America's families.

America's small businesses are doing their job, and I salute those small business owners.

GOOD NEWS AND BAD NEWS FOR U.S. ECONOMY

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, thankfully, there have been a couple of bright spots over the past week in the economy. April was just the sixth month during this administration in which at least 250,000 jobs were created, a welcome relief for this struggling economy. Meanwhile, the trade deficit in March decreased from its record high level in February, though it is still on pace to become a record year, the highest trade deficit in the history of our country.

Still, the positive news on the economy is often accompanied by equally troubling news. New statistics show that each paycheck American workers take home ends up buying less and less. The prices of many basic goods from gas to milk have shot up, but workers' wages have not kept pace. Americans are working hard and producing more, but they are not seeing the benefits in their buying power. This is terrible news for America's families. We have to have those wages at least keep pace with inflation.

PROVIDING FOR CONSIDERATION OF H.R. 1544, FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2005

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes. The first

reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Homeland Security now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1030

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

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

Mr. Speaker, I rise today in strong support of this rule and the underlying legislation, H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. This bill sponsored by my good friend, the gentleman from California (Mr. COX), has the support of 40 bipartisan co-sponsors and was accepted at both its subcommittee and full committee markups with unanimous consent of the majority and minority membership of the new Select Committee on Homeland Security.

The goal of this bipartisan legislation is simple: to reform the way the Department of Homeland Security issues terrorism preparedness grants to States and local governments so they can prepare for, prevent, respond to, and recover from acts of terrorism. It also expedites the delivery of Federal assistance to first responders, those brave men and women who are our first line of defense against terrorism, where it is needed most while also endorsing undisciplined spending on the homeland security front.

This legislation also reflects an agreement among policymakers here in the House: first of all, on the need to award Federal terrorism preparedness grants on the basis of risk; on the importance of ensuring that such grants are spent in a timely manner; and on the necessity of ensuring collaboration between neighboring jurisdictions.

As Members of Congress, we have seen all too clearly the problems associated with coordinating the effective and efficient allocation of these new funds to fight and defend against acts of terrorism on our shores. Since 2001, the Federal Government has made roughly $30 billion available in grant funding for this purpose, but approximately $4.1 billion awarded by the Department of Homeland Security still remains in the pipeline, unspent, along with another $2.4 billion recently added from 2005.

This bottleneck in getting our first responders the funds that they need to protect our safety is unacceptable, and this legislation will get these terrorism preparedness funds into the hands of those who need it most, by ensuring that guarantee that no State or territory falls below a certain base level of funding while also ensuring that States prioritize their own anti-terrorism spending on the basis of risk and need.

By providing financial encouragements to States that pass through their awarded funds to localities within tight timeframes, this legislation makes our funding for such programs faster. And by allocating grant awards to States and regions based on an assessment of risk and need to achieve clear and measurable preparedness goals, this legislation also makes our funding for such programs smarter.

Mr. Speaker, H.R. 1544 fulfills the recommendations included in the 9/11 Commission report, and recognizes the fundamental reality that terrorists are not arbitrary in selecting their targets, so we cannot be arbitrary in our efforts to protect our Nation. By streamlining the grant process and giving States and regions the tools that they need to develop specific flexible and measurable goals, this bill will make sure that every Federal dollar allocated for the purpose of defending our security is used effectively and efficiently.

I encourage all my colleagues to support this rule and the underlying legislation which brings a risk-based approach to addressing our country's most pressing homeland security needs.

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

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

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

Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Mr. Speaker, today we will debate bipartisan legislation from the Select Committee on Homeland Security to improve funding for first responders.

In this new post-9/11 era, ensuring that our country is protecting itself from attack is of prime importance. I am especially proud of the efforts of my hometown of Sacramento. Federal officials have recently highlighted Sacramento as an example to other localities of how to efficiently spend Federal anti-terrorism dollars.

Already, Sacramento's main agencies tasked for homeland security, police, sheriff, health and the city and metro fire departments, are all coordinating their efforts.

The five agencies have already agreed to share all of the homeland security dollars, a unique show of cooperation when limited funding is at stake. Not only have the agencies standardized protective suits and gas masks, but a massive 9,000 emergency personnel training effort is under way. With all of Sacramento's hard work, I am not surprised that Federal officials are singling their efforts out.

What we are doing today will help these first responders in their work. Currently, base funding for homeland security assistance programs is distributed among the States according to a strict formula. This formula has resulted in greater funding going to lower-risk States like Wyoming on a per capita basis rather than more at-risk States like New York and my home State of California.

This bill would alter the funding allocation to States based on threat and risk. However, each State would be guaranteed a minimum if its dollar amount fell below a specified level. Even the 9/11 Commission recommends that Federal dollars supplement State and local efforts that fall in higher-risk areas. This is a commonsense proposal.

I am pleased that this reform will greatly benefit California and my hometown of Sacramento. Further, this bill continues Federal support for the Urban Area Security Initiative, which Sacramento has received funding through, in addition to other Federal grant programs.

H.R. 1544 also recognizes the increased risk to our region posed by our flood control systems by specifically including dams in its list of critical infrastructure. Its inclusion will allow consideration of flood control levees and dams as a factor in determining the risk a community faces.

I would like to take this opportunity to thank the ranking member, the gentleman from Mississippi (Mr. THOMPSON), for highlighting this issue of great concern to both our districts. Our communities are faced with a continuing risk of flooding. Sacramento's flood risk is among the highest of

major urban areas in the country. Located at the confluence of the Sacramento and American rivers, the Sacramento floodplain is the hub of a 6-county regional economy that provides 800,000 jobs for 1.5 million people. A major flood along the American River would cripple this economy, cause between 7 and $16 billion in direct property damages, and likely result in significant loss of life.

While we typically view the levee system as our first line of defense against Mother Nature's raging storms, we must also face the reality that this critical infrastructure must be protected from terrorist attack. A major levee failure or a terrorist attack at the dam upstream would be absolutely devastating to the region.

The addition of this provision by the Select Committee on Homeland Security shows why amendments and increased discussion of this bill are so important. And I am glad to see that the Committee on Rules did make in order a few of the amendments that were brought before our committee. But I must express my disappointment that this bill will not be debated today under a more open process. I believe that there are a number of other amendments that, while we may disagree on the position, they are worth continued debate on the House floor.

For example, while the Select Committee on Homeland Security explored the issue of whether all first responder grants should be awarded strictly on the basis of risk, doing away altogether with State minimum award requirements, I think there are a number of Members that would like to see this issue debated before the full House.

Even the gentleman from California (Mr. COX) acknowledged that while he personally would like to see all first responder funding allocated by risk, the issue of ensuring each State receives a minimum was an important compromise in his committee. An amendment addressing this exact issue was brought before the Committee on Rules, but it was not made in order.

I strongly support the underlying bill, and I am pleased it was reported out in bipartisan fashion. I commend the Select Committee on Homeland Security for their extensive debates on the best strategies to improve the funding streams for our first responders. I imagine there are many divergent opinions on this matter, and it would be excellent debate for us to have had here today. It is unfortunate the Committee on Rules did not open this rule so we could continue this full dialogue today.

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

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. ROGERS). Mr. Speaker, one of the advantages of having a great bipartisan bill means that we have good leadership in the Select Committee on Homeland Security, and today I am very pleased for one of our bright new young Members to be with us. He is the chairman for the Subcommittee on Management, Integration, and Oversight.

Mr. ROGERS of Alabama. Mr. Speaker, I thank my friend and colleague, the gentleman from Texas (Mr. SESSIONS), for yielding me time.

Mr. Speaker, I rise today in strong support of H. Res. 269. This rule would provide for the consideration of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

In the years since 9/11, our Nation has spent billions of dollars to strengthen our firefighters, police, and emergency personnel. These hard-working Americans known as our first responders are the frontlines of our Nation's homeland defense. They keep our communities safe, and they respond when disaster strikes.

The bill we will be debating today is a good piece of legislation and is designed with our first responders in mind. It does several things. First, it reforms the grant funding system that most States, including my home State of Alabama, believe is ineffective.

For example, a 2004 committee report found that nearly 85 percent of the grants distributed to States have not yet been utilized. And because current law requires a minimal level of funding given to States, many States receive a lump sum of money from DHS without a clear understanding of how to spend it.

□ 1045

Three-and-a-half years after 9/11 I find this unacceptable. Yet these facts speak to the need for a bipartisan reform which will ensure taxpayers know what they are getting.

Second, H.R. 1544 helps the Federal Government allocate first responder funding based on actual risk. Under this legislation, States like Alabama would be required to submit an annual State homeland security plan to the Federal Government. This plan would outline the State's projected risks to 16 economic sectors, such as agriculture, the number of military bases and its transportation infrastructure. States meeting these risk criteria would be eligible for a greater funding.

For our rural areas, this could mean new funding sources. For example, States like Alabama could see increased funding for agro-terror initiatives. States with a heavy military industrial base could receive additional assistance to protect communities near bases, and of course, ports like Mobile would continue to receive much-needed support for cargo security initiatives.

I do want to acknowledge that H.R. 1544 changes the minimum level of guaranteed funding to each State, and while some of my colleagues have called this a cut, I like to think of it as better use of limited homeland security dollars.

We all know of instances where the Federal Government funds State projects which, in reality, have little or nothing to do with securing our homeland. This bill will help correct that situation.

I also want to make clear what this bill does not do. Essential programs like FIRE grants, COPS, grants bulletproof vests funding, or secure school initiatives for local police are not affected. These programs have provided rural areas, like my district, with millions of dollars for new safety equipment and vehicles, and I will continue to do my part to ensure they are fully funded each year.

H.R. 1544 is bipartisan, both in spirit and intent. Every Member of the Committee on Homeland Security, both Republicans and Democrats, have signed on to this bill as original cosponsors, and the committee reported it out by a unanimous voice vote.

The bill also closely resembles the 9/11 reform legislation passed by the House during the 108th Congress and has been endorsed by the 9/11 Commission and a majority of first responder groups nationwide.

I am pleased to support this legislation and ask for support of this rule so the House can consider it today.

I want to thank the gentleman from California (Chairman COX) for his ongoing efforts to advance this legislation.

Ms. MATSUI. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

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

Mr. MENENDEZ. Mr. Speaker, I want to thank the gentlewoman from California for yielding me this time.

On September 11, more than 700 of our friends and neighbors from my State of New Jersey never returned home from work and never returned to their families. The smoking ruins of the Twin Towers were visible for my entire district to see, and many of the police and emergency response personnel that responded so heroically to the attacks were from New Jersey.

Yet, here we are 3 years and 8 months later and our current homeland security funding is not based on risk and threats. That is why I rise in strong support of this important legislation which will finally direct Federal assistance to those first responders serving where the need is greatest. We know the enemy seeks to attack again. We just do not know when and where it will occur.

New Jersey faces unique terrorism threats that require a greater portion of homeland security aid due to its proximity to New York City and to its vast number of potential targets of terror, such as the largest seaport on the east coast, one of the busiest airports in the country, an area known as the ''chemical coastway,'' our four nuclear power plants, and the six tunnels and bridges that connect New Jersey to New York City.

If that were not enough, the Federal Bureau of Investigation has placed more than a dozen New Jersey sites on

the National Critical Infrastructure List and has called the area in my district between Port Newark and Newark International Airport the most dangerous 2 miles in the United States when it comes to terrorism. A recent article in the New York Times pointed out that this 2-mile area provides a ''convenient way to cripple the economy by disrupting major portions of the country's rail lines, oil storage tanks and refineries, pipelines, air traffic, communications networks and highway system.''

Yet the State's homeland security funding was cut in this fiscal year by 34 percent. In my district, two high-risk urban areas saw their funding reduced by 17 and 60 percent respectively. Mr. Speaker, the current system of allocating homeland security funds is broken and needs to be fixed immediately.

The 9/11 Commission report said that, ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.'' That is exactly what the Menendez substitute to the intelligence reform bill would have accomplished last October. That is exactly what I fought for in the conference report on that legislation and what I sought to accomplish earlier this year when I introduced the Risk-Based Homeland Security Funding Act with Senators CORZINE and LAUTENBERG.

We must take every step to secure our communities from the threat of terrorism, and this bill will ensure that the first responders on the front lines of this war in both New Jersey and across the country will receive a much-needed increase in Federal homeland security funding.

The House of Representatives must pass this important piece of legislation today, and the Senate should act as quickly as possible to get it to the President's desk.

I urge all of my colleagues to support this bill. It will turn the 9/11 Commission's recommendation into law, while protecting those areas and targets that are at the greatest risk of a future attack.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. SHUSTER), the subcommittee chairman of the Subcommittee on Economic Development, Public Buildings and Emergency Management for the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, this is a good and fair rule that provides ample time to discuss this very, very important issue. I urge my colleagues to support the rule and to support the Faster and Smarter Funding for First Responders Act.

Mr. Speaker, I would like to applaud the gentleman from California's (Chairman COX) commitment to first responders and for developing a bill that better prepares our Nation for terrorism.

Since before the terrorist attacks of September 11, experts from across the political spectrum have urged these kinds of reforms that are in this bill. These improvements include clear preparedness standards to guide State expenditures, mutual aid agreements, interoperable equipment and better planning and coordination between first responders at all levels of government.

I also want to applaud the gentleman from California (Chairman COX) for his willingness to carry this bill forward in an open and fair process.

As the chairman of the Committee on Transportation and Infrastructure's Subcommittee on Economic Development, Public Buildings and Emergency Management, I can say with confidence that we have a stronger bill today because of the efforts of the gentleman from California (Chairman COX) and the gentleman from Alaska (Chairman YOUNG).

I particularly want to thank the gentleman from California (Mr. COX) for working with the Committee on Transportation and Infrastructure to incorporate two important principles throughout this bill: a commitment to the Nation's all hazards emergency system and minimum funding for all States.

We must remember that first responders have to deal with all kinds of disasters, regardless of the cause, and that our first responder programs must address terrorism in that context. There are no terrorism fire stations in this country. Firefighters respond to everything. The Cox bill recognizes this and ensures that terrorism preparedness is fully compatible with our existing all hazards system.

The second principle acknowledges that every State must have basic response capabilities. I come from a State with two very large metropolitan areas, but I recognize that terrorists can attack outside of these big cities.

Furthermore, if there is a catastrophic attack in a large urban area, local response agencies will be overwhelmed and will require assistance from units across this country, suburban areas as well as rural areas. These units will need proper equipment and training to effectively integrate into a large-scale disaster response.

States need a guaranteed minimum level of funding to meet both these requirements.

I would again like to commend the gentleman from California (Mr. COX) for his hard work and leadership and urge my colleagues to support the rule and the underlying bill.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman for yielding me time, and I rise in support of the rule on H.R. 1544.

It has been 3 years and 8 months since 9/11. I thank my colleagues for coming together and being so unified in helping New York during that very tragic period, and I thank very much the leadership of the gentleman from California (Chairman COX) and the gentleman from Mississippi (Ranking Member THOMPSON) on the Faster and Smarter Funding for First Responders Act.

This is not a perfect bill but it does fundamentally change the way we distribute homeland security grants for first responders.

This bill will distribute all homeland security funding on the basis of risk, rather than thinly spreading it around the country, with absolutely no standards, no basis for risk and absolutely no justification as to how the money was to be spent.

While the Department of Homeland Security has always had the authority to distribute the majority of homeland security funding on the basis of risk, they have never done so. Previously, heavily populated States and heavily threatened or high-threat States like New York only received about $4 per capita, while other States, like Wyoming, received close to $28 per person. What might have been even worse is that States were not required previously to justify need or to justify how they were spending the money. They just got a check. We had no standards, and we had no way of knowing what level of preparedness we had in this country in our various localities and States.

This bill should be the end of this and hopefully the end of troubling press reports of mis-spent homeland security funding.

While I would have liked to have seen a bill with no State minimums, because I do not support funding homeland security projects without first determining a need, I understand the delicate negotiations that went into this bill. Again, this bill is not perfect but a much better way of protecting our country, and that is why I am supporting it.

Like many of my colleagues, I will be watching the way the funding is distributed to make sure that the promise of this bill is fulfilled and that it is directed where the need is in our country to protect our citizens.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

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

Mr. Speaker, I rise in strong support of the rule and of H.R. 1544. I commend the gentleman from California (Chairman COX) and his committee for their great work on this essential legislation.

This legislation is an issue of great importance for our Nation, but it is also a huge priority for New Jersey, which lost, as the gentleman from New Jersey (Mr. MENENDEZ) said, 700 residents on September 11, 2001.

The 9/11 Commission recommendations rightly stated: ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.''

Both the President in his budget and, most recently, the Committee on Appropriations Subcommittee on Homeland Security in their bill just passed out of full committee have echoed this important recommendation.

Since September 11, 2001, U.S. intelligence reports that our New York-New Jersey region is still among the most attractive targets for terrorists. For all of our critical infrastructure of the trans-Hudson tunnels, airports, seaports, oil refineries, chemical manufacturing, population density, financial centers in both lower Manhattan and in Jersey City, our basic close relationship with New York City, anti-terrorism experts continue to acknowledge that the risk of terrorism remains.

Yet, despite the best efforts of the President, homeland security officials and Members of Congress, these security funds continue to be distributed to States based on population, rather than risk and vulnerability. That is why this bill needs to be passed in its present form.

Fortunately, the legislation addresses our concerns and follows the Commission's recommendations. We are sending more Federal homeland security to States like New Jersey and other high-threat areas where risk is greatest and critical infrastructure must be better protected against terrorism.

H.R. 1544 establishes a more rational approach to distributing homeland security funding by sending more resources to where they are needed. As we learned on September 11, terrorists do not arbitrarily select their targets. Therefore, homeland security funding cannot be arbitrarily distributed.

This legislation would ensure that homeland security grants are awarded according to an assessment of risk and vulnerability, not just population.

For these and many other reasons, Mr. Speaker, this bill and this rule needs to be supported.

□ 1100

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I rise in support of the Faster and Smarter Funding for First Responders Act. In the post-September 11, 2001, world that we live in, it is clear we need a more effective approach to funding our first responders. Terrorists are targeting high-profile targets in our major metropolitan areas, and we must ensure we have the funds they need.

The 9/11 Commission, which I strongly supported, recommended we allocate grant funding based on risk, not politics. This bipartisan legislation does just that. It goes where it is most needed. I cannot tell you if my State of Connecticut gains funds or loses funds under this bill, but that cannot be the issue. The question is: Are funds going where we have the greatest risk? And the answer to that question is: Yes. We are following the 9/11 Commission recommendation. It is going where we have the greatest need.

H.R. 1544 will distribute first responder grants based on threat, vulnerability, and consequences of a terrorist attack to persons and critical infrastructure sectors throughout the United States. This will allow streamlining terrorism preparedness grants to our first responders who, again, need it most.

As chairman of the Subcommittee on National Security, Emerging Threats and International Relations, I know this legislation allocating these resources based on risk is essential to my communities, my State, and our Nation. H.R. 1544 is an important step towards enhancing our Nation's response to terrorist attacks.

The bottom line is, it is not a question of if, but of when terrorists will strike again. The legislation is essential because it helps ensure that when they do, our first responders, who need the resources the most, will be better able to protect the communities they serve.

Congratulations to the chairman, the gentleman from California (Mr. COX), and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), and to the Members on both sides of the aisle who have worked in a bipartisan manner to make our Nation safer.

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT), one of our bright new young Members.

Mr. DENT. Mr. Speaker, I rise to speak in support of the rule and H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

Mr. Speaker, it is said that in this country politics end at the water's edge. This is certainly the case with this legislation. The Select Committee on Homeland Security, on which I serve, passed this bill unanimously. This occurred because the idea behind the legislation is a bipartisan one: combat the threat of terrorism at home by directing funds to those localities that are most at risk for terrorist attack.

The idea that funding should be based on risk and security rather than on political concerns is one that resonates on both sides of the aisle of this great Chamber. The Members of this body recognize that the challenges we face are unique in our history. No previous generation has had to combat the threat to the homeland that we face right now.

Today's terrorists are determined to wage war against us not on some overseas battlefield, but in our cities, ports, and transportation hubs. This is why this bill is so important. It makes sure that we take into account threats, vulnerabilities, and consequences of attack as we decide how to best spend our anti-terrorism dollars.

This bill is also necessary because it confronts the issue of threats to the homeland head on. It directs appropriate State authorities to come up with a comprehensive homeland security plan tied to the achievement, maintenance, and enhancement of the essential capabilities established by the Department of Homeland Security.

In developing those essential capabilities, the Department is required to seek the input of those on the frontlines: local police; fire departments; and EMS units, emergency medical service units. This provision is vital because combating terrorism is a nationwide problem that calls for cooperation between officials at the local, State, and Federal levels.

Finally, the bill requires the Department to set national standards for first responder equipment and training so that all frontline units responding to a terrorist attack will be able to operate effectively.

The Faster and Smarter Funding for First Responders Act of 2005 is an important tool for safeguarding the homeland. It is a positive step towards development of an effective homeland security policy, and I support it wholeheartedly.

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Nevada (Mr. GIBBONS), a young man who was on the frontline, a captain, a pilot in the United States Air Force, who served during the Persian Gulf War and who is a Member of Congress, serving since the 104th Congress. And while this country has great respect for the men and women who are on the frontlines defending our country in the United States military today, we also remember back to those first men and women of the military during the Persian Gulf War who were standing ready not only to protect this country, but also to liberate others and to provide freedom.

Mr. GIBBONS. Well, Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my friend and colleague, for that generous introduction; and I rise today, Mr. Speaker, in support of both the rule and the overall bill, H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

As a member of the Select Committee on Homeland Security, I am

proud to be an original cosponsor of this bipartisan bill; and I congratulate the chairman, the gentleman from California (Mr. COX), and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), for their diligent work on this act.

This bipartisan bill will help expedite the homeland security grant process and ensure that money gets to those who need it the most, our first responders. Importantly for my State, the State of Nevada, this bill will allow the Department of Homeland Security to take into account both resident and tourist populations when determining a State's funding for terrorism preparedness.

My fellow Nevadans know that tourism is a significant part of our State's industry and our population. On any given day of the year, Nevada hosts hundreds of thousands of tourists from across the country and around the world. Las Vegas Boulevard, Mr. Speaker, has more hotel rooms than any other city in the world. According to Nevada's Commission on Tourism, Nevada welcomed over 50 million tourists alone just last year.

Prior to this bill, terrorism preparedness grant funding did not take tourism into consideration in determining a State's population. Yet Nevada's first responders were and remain responsible for protecting everyone, residents and visitors, 24 hours a day, 7 days a week. To ignore the tourism population in determining a State's level of risk simply ignores a large population within a potential terrorist target.

The First Responders Act of 2005 will help States with large tourism populations, like Nevada, receive a more equitable allocation of tourism preparedness funds. H.R. 1544 is a step in the right direction and, in fact, should stand as a model for all homeland security grants. More homeland security programs beyond just the terrorism preparedness grants should also take into account tourism populations.

As we move forward in strengthening our homeland security, I look forward to achieving this goal and to providing our first responders with the critical resources they need to protect the people of this country. I urge my colleagues to support this landmark legislation, and I once again congratulate the chairman and I congratulate my friend, the gentleman from Texas (Mr. SESSIONS), for their hard work on this effort.

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time I am very, very pleased to yield 3 minutes to the gentleman from California (Mr. COX), the young chairman of the Select Committee on Homeland Security, a very distinguished Member of Congress, and a man who has worked very diligently not only on a bipartisan basis with the minority, but also with the Speaker and in particular with the Committee on Rules as we went about preparing this important piece of legislation to ensure its success. So I am very, very proud of the chairman from Orange County, California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my older brother, for all the work that he did.

Really, in all seriousness, Mr. Speaker, I want to begin by thanking the gentleman from Texas, who, as a member of the Select Committee on Homeland Security for 2 years was instrumental in writing this legislation; who, as a Member of the Committee on Rules in the 109th Congress, has been appointed by the chairman as liaison to the Select Committee on Homeland Security and has made possible the process by which we will consider this bill on the floor today.

In fact, it really merits pointing out today that the Committee on Rules of the House of Representatives has played a special role in the establishment of the Select Committee on Homeland Security, for which this is the first major legislative effort on the floor this year.

In the last Congress, not only the gentleman from Texas (Mr. SESSIONS) but also the gentlewoman from New York (Ms. SLAUGHTER); the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who is the chairman of the Subcommittee on Rules of the Select Committee on Homeland Security; the gentleman from California (Mr. DREIER), chairman of the full Committee on Rules; the gentleman from Georgia (Mr. LINDER), who is now chairman of the Subcommittee on Prevention of Nuclear and Biological Attack of the Select Committee on Homeland Security; and Porter Goss of Florida, who is now the Director of the Central Intelligence Agency, all were Members of the Select Committee on Homeland Security in the last Congress and also Members of the Committee on Rules that worked to change the jurisdiction of the House of Representatives to make sure we would have a focus on this critical national priority that both President Bush and the leaders of this Congress have recognized as so important that we have reorganized the entire executive branch and now the legislative branch of government. That is the process by which this rule and the bill that it outlines are coming to the floor today.

Since September 11, over $30 billion in terrorism preparedness funding has gone from the Federal Government to State and local governments. In this year's budget, President Bush has added to the annual amount an incremental $2 billion more. That will mean that we have had an increase in annual spending on terrorism preparedness for States and localities since 9/11 of over 2,000 percent. The question is not whether we are putting enough money into terrorism preparedness for our first responders. The question is whether the money is making it to the frontlines. And the answer to that is, no, it is not. And the question is also whether it is being spent properly, in a way that makes us more prepared. And, unfortunately, the answer to that question is, not always.

There are opportunities for major improvement, and that is what this bill is all about. It is called the Faster and Smarter Funding for First Responder Act because it solves both those problems. It will get the money to the frontlines faster, and it will make sure that we are spending the money based on what we know from our intelligence about terrorist threats and capabilities, our own vulnerabilities, and the consequences of terrorist attacks.

I strongly support this rule and look forward to passage of the bill later today.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, on September 11, 4 years ago, fanatic Islamic terrorists attacked our country, hijacked our planes, rammed the Pentagon, and destroyed the World Trade Center that was located in my district. This is deadly serious business, and we do not have a dime to waste. This bill, while certainly an improvement over current law, still includes State-based formula funding.

I offered an amendment to eliminate the State minimum section of the bill to ensure that all homeland security funding is distributed on the basis of risk. Unfortunately, that amendment was not made in order by this restrictive rule. I am saddened that there are still people in this House who still do not get it. How many times do we have to run for our lives before we realize this is not a game? We face the serious threat of terrorism, and we should allocate the homeland security funding based on that threat.

□ 1115

I understand this bill is a delicate political compromise. On the whole, I support it because it is better than current law. But we can do better.

State minimums waste homeland security funding. This bill would give States money that cannot be justified on the basis of the risk, wasting precious resources that should be used to protect the American people from real dangers in other States.

In this wonderful, open, rich, free society in which we live, there are plenty of real targets that need protecting all across America. The issue of State minimums is not just about New York. If there are real threats to our food supply, our energy resources, our national monuments, they should all be protected. But we should not give more money to States who cannot demonstrate a need while we know there are other States that have needs that cannot be met. It just does not make sense.

The bipartisan 9/11 Commission recommended that anti-terrorism funding be distributed based on risk and not based on State formulas or pork-barrel spending. We should follow their excellent advice. The State minimum provision in this bill is in direct violation of the 9/11 Commission recommendations. In its report, it said that, Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.'' The commission went on to say that ''Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks and vulnerabilities that merit additional support. Congress should not use this money as pork barrel.''

My amendment would have stricken these State minimums and distributed these grants in a manner that addresses the highest priority threats and vulnerabilities of the Nation. There are very real and known terrorist threats against specific targets in the country, and these homeland security grant programs were created specifically to address these threats. Distributing terrorism response funding without regard to risk is not wise. It is not cost effective. It is not in the best interests of our country's security. These resources should go where they are needed, where there is the greatest threat of terrorism. Period.

As noted in the 9/11 Commission's report, ''Those who would allocate money on a different basis should then defend their view of the national interest.'' I had hoped that the Rules Committee would have followed the recommendations of the 9/11 Commission and made my amendment in order.

Nevertheless, I am pleased that the State minimum section in this bill is a significant improvement over current law by being much smaller, and I hope that when we enter into conference with the other body, we remain firm and fight to keep State minimums at the lowest possible level so that the risk-based funds can be kept at the highest level to fight the real threat of terrorism in our country.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, following on the remarks by my colleague from New York, who has been a strong supporter of reform in this area, I just want to correct a statement that he made. He suggested that this legislation violates the recommendations of the 9/11 Commission. In fact, the 9/11 Commission has expressly endorsed this legislation in precisely the form that it is coming to the floor today and the cochairman, Lee Hamilton, of the 9/11 Commission took the time to come to the Committee on Homeland Security just a few days ago to testify in solid support of this legislation.

And so as we go forward with the bill, I just want the Members to know that this bill in its present form is strongly endorsed by the 9/11 Commission, and it implements their recommendation.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

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

Mr. LANGEVIN. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in strong support of the Faster and Smarter Funding for First Responders Act. It is a testament to the importance and balanced approach of this bill that it is cosponsored by every Democratic and Republican member of the Committee on Homeland Security on which I am proud to serve. The 9/11 Commission and countless others have urged a more risk-based approach to homeland security funding. Unfortunately, we have been too slow to adopt this recommendation because, while we may agree on a risk-based method in theory, every Member wants his or her district to receive the most possible Federal assistance.

This bill takes the right approach and represents a long overdue move towards a more effective allocation of scarce resources. H.R. 1544 guarantees a minimum funding level for each State because all States must attain a benchmark level of preparedness and response capabilities. But beyond this minimum, the bill would disburse funds based on a risk and threat assessment to ensure that they are spent where they are most needed and will do the most good.

I am also pleased that this measure provides for a task force on terrorism preparedness to assist in updating the DHS list of essential capabilities for first responders. We must be able to measure the progress our States are making towards an adequate level of preparedness, and it is equally important that this baseline be achieved in every community throughout the country so that American families can feel secure no matter where they live.

I would like to note that for risk-based funding to work, however, DHS must have a comprehensive threat and vulnerability assessment on which to rely. I would urge DHS in the strongest possible terms to ensure that this critical piece of the puzzle is a top priority and is completed as soon as possible.

With that, Mr. Speaker, let me encourage all of my colleagues to support this bipartisan measure. I want to commend both Chairman COX and Ranking Member THOMPSON on their fine work on this piece of legislation.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), chairman of the Subcommittee on Prevention of Nuclear and Biological Attack.

Mr. LINDER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the time, and I rise in support of both the rule and the underlying legislation, H.R. 1544.

In 1787, John Jay wrote, ''Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first.'' More than 215 years later, we all agree on the importance of protecting the people. However, this House today finds itself debating the question of just how best should the government protect the people.

In 2001, Congress enacted many sweeping changes to our Nation's anti-terrorism laws, including the formulas by which States would receive homeland security grants through the passage of the USA PATRIOT Act. Under the PATRIOT Act, each State is guaranteed to receive three-quarters of a percent and each territory .25 percent of the total amount appropriated each year for terrorism preparedness grants. The balance of the funds is then distributed to each State and territory based on population.

In hindsight, we can see that this system of allocation is flawed. For example, in fiscal year 2005, the minimum allocation for each State is $11.25 million. Using that total, based on current census numbers, the State of Wyoming would receive a minimum guarantee of $22.23 per person in homeland security grants while the State of California would receive a minimum guarantee of just 31 cents per person. In other words, the Federal Government would allocate approximately 7,100 percent more funding per capita at a minimum to the State of Wyoming than it would to the State of California for homeland security grants.

That is why I am a cosponsor of H.R. 1544 and voted to support the bill in committee. It is the responsibility of this government not only to ensure that we are protecting the people but also to ensure that we do so in an efficient and measured fashion.

Let us be clear about one point. H.R. 1544 does not eliminate minimum guarantees for the States. Under this legislation, each State, regardless of population, would receive a minimum of .25 percent of the total amount appropriated each year for terrorism preparedness grants.

H.R. 1544, however, does require the government to move away from its arbitrary approach to anti-terrorism funding toward a more rational approach. Rather than continuing to simply allow homeland security grant programs to become Federal cash cows for States and localities, this legislation focuses our efforts on what is truly important, namely, our Nation's vulnerabilities.

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

I look forward to hearing the debate on this legislation to improve first responder funding. We all want to ensure our communities are well equipped and prepared to face any threat. I believe that the underlying bill will help accomplish exactly that.

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

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

I want to thank the gentlewoman from California for her work on this bill today. I would also like to thank the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON), from the Committee on Homeland Security; as well as the gentleman from New York (Mr. KING), chairman of the Subcommittee on Emergency Preparedness, Science, and Technology; and the gentleman from Alaska (Mr. YOUNG) of the Committee on Transportation and Infrastructure for all of their hard work and determination in bringing this bill forward. They worked well together. This is a bipartisan bill.

The Rules Committee met just several days ago and heard how the ranking member and Chairman COX put a great work package together. The Rules Committee decided to help out a little bit. We have made in order with this rule three Democrat amendments and two Republican amendments that will be part of this wonderful bill that will be debated in just a few minutes here in this House. I am very proud of the work that we have accomplished together. I am very proud of the legislation.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COX. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1544.

The SPEAKER pro tempore (Mr. SESSIONS). Is there objection to the request of the gentleman from California?

There was no objection.

FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1544.

□ 1127

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes, with Mr. CALVERT in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

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

I rise today in strong support of H.R. 1544, the Faster and Smarter Funding for First Responders Act. I am here on the floor today with the ranking member of the Committee on Homeland Security, the gentleman from Mississippi (Mr. THOMPSON). He and I are here to argue today on behalf of a bill that is strongly endorsed by every single Republican and Democratic member of the Committee on Homeland Security. More than that, this legislation is supported by the Bush administration. We have received a formal statement of administration support for this bill. It is strongly endorsed by the 9/11 Commission whose recommendation that first responder funding be placed on a risk basis this bill implements. It is endorsed by scores of first responder groups, the men and women on the front lines for whom this money is intended. They worked with us over a period of over 2 years, first to identify the problems in the current grant-making system for billions of homeland security and terrorism preparedness dollars and, second, to develop a solution.

The solution that today's bill presents is a simple one. We are going to move away from political formulas for allocating these billions of dollars and toward a system that relies on the intelligence that the American taxpayer already purchases at the price of billions of dollars every year, information about terrorist capabilities and intentions, information about our own critical infrastructure and vulnerabilities and information about the potential consequences of different kinds of terrorist attacks. In combination, this mix of threat, vulnerability and consequence is called risk. Funding for first responders in the future is going to be based upon risk. That is what this bill is all about.

And we solve the second problem. Of the over $30 billion in terrorism preparedness moneys that the Federal Government has made available to States and localities since September 11, some 60 percent of it is not yet spent. It is stuck in the administrative pipeline.

□ 1130

There are a number of reasons for this that our committee has discovered through field hearings across the country, hearings here in Washington, and our own investigation. But at bottom it is this: right now there is an ''ad hockery'' to the way that moneys are passed around the country. There is no predictability about when the funds might arrive, whether reimbursement will be there. And the planning, as a result, tends to take place after the money is received, slowing things down.

In our new system, the planning will be moved at the front end of the process. Every State which already has a statewide terrorism preparedness plan will ensure that when these applications for grants are made, they are directly tied to that statewide plan and also directly tied to the achievement of national objectives for first responder preparedness.

We will have clear standards for the first responders so that they will not have these kinds of questions about reimbursement that have plagued them in the past. We will know that what we are buying in the form of equipment and training will be directly tied to national terrorism preparedness goals.

In recent days, there has been a fair amount of press coverage about abuses of homeland security spending. For example, right here in Washington, D.C., we learned that $100,000 of this grant money meant for first responder terrorism preparedness was instead spent on a Dale Carnegie course for sanitation workers, another $100,000 was spent to develop a rap song purportedly to educate young people about how to be prepared in the case of a terrorist attack.

These kinds of abuses will come to an end as a result of this legislation, and our money will be directed toward keeping our first responders, who are not only first in line to protect us but first in line for the terrorists, the first to die if this system does not work right, keeping these people well trained and well equipped.

I would like to thank, in addition to the gentleman from Mississippi (Mr. THOMPSON), ranking member, the other members of the Committee on Homeland Security. There has been a great deal of work that has gone into this bill. The last step in bringing this to the floor was a 13-hour markup in our committee. I think what we will find today, Mr. Chairman, is that this debate will go forward in a very bipartisan fashion. We might not agree about all the details of this legislation. We may not agree when we go to conference with the Senate. And when we come back with a conference report, hopefully in just a few weeks or maybe a few months, we may not agree on every detail.

But there is a big change in this bill that we all agree on, and that is that henceforth moneys for terrorism preparedness that go from Washington to States and localities to our police, to our firefighters, to our EMS personnel, to people in hospitals who will be there in case of a biological attack or indeed to treat the wounded in case of any attack, that the people who get these moneys will be assured that, first, the moneys will arrive soon, on time, right after we want them to be available; and, second, they will know how to spend it and they will know, when they spend it in accordance with their plans, they will get reimbursed for it. This will move America in the direction that we need to go to be prepared for another terrorist attack.

A great deal of our work in the Committee on Homeland Security is focused on preventing terrorist attacks,

as well we should be focused; but I have no doubt that someday somewhere terrorists will again strike our country; and when that happens, we are going to rely on our first responders just as we did on 9/11, and next time we want to make sure they have all the training and all the equipment that they need. This bill is a strong step in that direction. It is something that I think we can all be very proud of.

I want to conclude by thanking the gentleman from Mississippi, who, as the leader of the minority, has made it possible for us to keep in mind that when the terrorists attack us, they are not going to attack Democrats or Republicans. They are going to attack Americans. And we are all Americans here, and we are all doing the right thing today.

Mr. Chairman, I submit the following exchange of letters for the RECORD.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, April 25, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

Our Committee recognizes the importance of H.R. 1544 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 25, 2005.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Transportation and Infrastructure Committee's jurisdictional interest in H.R. 1544, the ''Faster and Smarter Funding for First Responders Act of 2005.'' The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Transportation and Infrastructure Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Transportation and Infrastructure Committee does not waive any jurisdiction it may have over H.R. 1544. In addition, I agree that if any provisions of the bill are determined to be within the jurisdiction of the Transportation and Infrastructure Committee, I will support your request to be conferees with respect to those provisions during any House-Senate conference on H.R. 1544 or similar legislation.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE,
Washington, DC, April 25, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Science Committee in matters being considered in H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. Section 3 of this bill amends the Homeland Security Act of 2002 to add a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment. The development of such standards is of particular jurisdictional interest to the Science Committee.

The Science Committee acknowledges the importance of H.R. 1544 and the need for the legislation to move expeditiously. Therefore, while we have a claim to jurisdiction over section three of the bill (adding a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment), I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Science Committee, and that a copy of this letter and of your response will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor.

The Science Committee also asks that you support our request to be conferees on any provisions over which we have jurisdiction during House-Senate conference on this legislation.

Thank you for your attention to this matter.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 29, 2005

Hon. SHERWOOD BOEHLERT,
Chairman, Committee on Science, Rayburn House Office Building, Washington, DC

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Science Committee's jurisdictional interest in H.R. 1544, the ''Faster and Smarter Funding for First Responders Act of 2005.'' The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21,2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Science agreed to discharge during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Science Committee does not waive jurisdiction it may have over section three of the bill (adding a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment). In addition, if those provisions are determined to be within the jurisdiction of the Science Committee, I will support representation for your Committee during any House-Senate conference on H.R. 1544 or similar legislation.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, April 28, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Adams Building Washington, DC.

DEAR CHAIRMAN COX: I am writing with regard to H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, which was ordered reported by the Committee on Homeland Security on April 21, 2005. As you know, the Energy and Commerce Committee has jurisdiction over matters involving public health contained within section 3 of H.R. 1544 as reported.

Section 3 of H.R. 1544, as reported, requires the Secretary of Health and Human Services to appoint ex officio members and coordinate with the Secretary of Homeland Security with respect to the selection of emergency medical professionals to serve as members of a task force on terrorism preparedness. In addition, the bill requires that, in establishing any national voluntary consensus standards for first responder equipment or training that involve or relate to health professionals, the Secretary of Homeland Security must coordinate with the Secretary of Health and Human Services. This language is substantially similar to provisions contained in the Energy and Commerce reported version of H.R. 3266 from the 108th Congress.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 1544. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 1544 or similar legislation.

I request that you include this letter as part of the Committee's Report on H.R. 1544 and in the Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

JOE BARTON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 29, 2005.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Energy and Commerce Committee's jurisdictional interest in H.R. 1544, the ''Faster and Smarter Funding for First Responders Act of 2005.'' The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Energy and Commerce Committee marked up and ordered reported during the 108th Congress; and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that by not exercising your right to request a referral, the Energy and Commerce Committee does not waive any jurisdiction it may have over H.R. 1544.

In addition, I agree that if any provisions of the bill are determined to be within the jurisdiction of the Energy and Commerce Committee, I will support representation for your Committee during conference with the Senate with respect to those provisions.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 28, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN COX: On April 21, 2005, the Committee on Homeland Security ordered reported H.R. 1544, the ''Faster and Smarter Funding for First Responders Act of 2005.'' In recognition of the desire to expedite floor consideration of H.R. 1544, the Committee on the Judiciary hereby waives any consideration of the bill.

Several sections of H.R. 1544 contain matters within the Committee on the Judiciary's Rule X jurisdiction. The centrality of law enforcement to the primary purposes of this legislation brings it within the Committee on the Judiciary's legislative and oversight jurisdiction under rule X(1)(l)(7) (''Criminal law enforcement'') and rule X(1)(l)(19) (''Subversive activities affecting the internal security of the United States''). A summary of principal provisions within the Committee on the Judiciary's jurisdiction follows.

Sec. 3 (new section 1801(9)(B)(i)) establishes grant eligibility for a State or States located in a region ''established by a compact between two or more States.'' These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(l)(10) (''Interstate compacts generally''). Sec. 3 (new section 1802(a)(3)) (''Law Enforcement Terrorism Prevention Program'') falls within the Committee's jurisdiction under rule X(1)(l)(7) (''Criminal law enforcement'') and rule X(1)(l)(19) (''Subversive activities affecting the internal security of the United States''). Sec. 3 (new section 1803) (''Covered Grant Eligibility and Criteria'') establishes standards by which States and localities receive funding for, among other things, ''unique aspects of terrorism.'' These matters fall within the Committee's jurisdiction under rule X(1)(l)(7)(''Criminal law enforcement'') and rule X(1)(l)(19) (''Subversive activities affecting the internal security of the United States'').

Sec. 3 (new section 1804)(''Risk-based Evaluation and Prioritization'') establishes a ''First Responder Grants Board'' with broad authority to assess a range of domestic security threats, including those based on ''acts of terrorism of the known activity of any terrorist organization.'' Domestic security threats clearly fall within the Committee on the Judiciary's jurisdiction under rule X(1)(1)(7)(''Criminal law enforcement'') and rule X(I)(1)(19)(''Subversive activities affecting the internal security of the United States''). Sec. 3 (new Section 1804(c)(3)) (''Types of Threat'') directs the Secretary of Homeland Security to consider a variety of threats to critical infrastructure, including: biological threats; nuclear threats; radiological threats; incendiary threats; chemical threats; explosives; suicide bombers; cyber threats; and any other threats based on proximity to specific past acts of terrorism or the known activity of a terrorist group. Much of this information could be acquired only with the active participation of law enforcement and antiterrorism agencies, including the Department of Justice and its relevant components. These matters fall within the Committee on the Judiciary's legislative and oversight jurisdiction under rule X(I)(1)(7)(''Criminal law enforcement'') and rule X(I)(1)(19)(''Subversive activities affecting the internal security of the United States'').

The Committee on the Judiciary agrees to waive any formal consideration of the bill with the understanding that its jurisdiction over these and other provisions contained in the legislation is no way altered or diminished. The Committee on the Judiciary also reserves the right to seek appointment to any House-Senate conference on this legislation. I would appreciate your including this letter in your Committee's report on H.R. 1544 and the Congressional Record during consideration of H.R. 1544 on the House floor. Thank you for your attention to these matters.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 28, 2005.

Hon. F. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Judiciary Committee's jurisdictional interest in H.R. 1544, the ''Faster and Smarter Funding for First Responders Act of 2005.'' The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Judiciary Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544, in order to expedite proceedings on this legislation. I acknowledge the Judiciary Committee's Rule X jurisdiction over matters relating to criminal law enforcement and subversive activities affecting the internal security of the United States, and recognize the Committee's strong jurisdictional interest in this legislation. I agree that by waiving further consideration of the bill, the Judiciary Committee does not waive any jurisdiction it may have over H.R. 1544 or similar legislation. In addition, I agree that for provisions of the bill that are determined to be within the jurisdiction of the Judiciary Committee, I will support representation for your Committee during conference with the Senate.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

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

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

I would like at the outset to follow the conversation, saying this committee has worked very well on this legislation. It is bipartisan. The 14 hours we put in working on it in committee went very well. I would like to compliment the gentleman from New Jersey (Mr. PASCRELL), the ranking member of the Emergency Preparedness, Science, and Technology Subcommittee, for his work on this issue.

Mr. Chairman, I support H.R. 1544, the Faster and Smarter Funding for First Responders Act. Our first responders, whether they are firefighters, law enforcement, or EMS providers, are the first line of defense. We must provide them with additional resources, training, and information they need in order to meet the challenges.

Preparing for, preventing, and responding to any large incident is primarily a local responsibility. Still, the Federal Government has a significant role. H.R. 1544 was introduced in April. It was co-sponsored by all the Democrats and Republicans on the Committee on Homeland Security, and it was approved unanimously by voice vote of that same committee. In addition, this bill is supported by every major first responder organization in the country. This version is a compromise that was reached during the 108th Congress in order to pass out of the House of Representatives at that point. The current system for distributing funding to first responders is fundamentally broken and is not getting the funding where it needs to go in a timely fashion.

Currently, funding is distributed solely on the basis of an arbitrary formula that does not consider risk in any part of the country. H.R. 1544 ensures that homeland security funding for first responders is distributed on the basis of risk regardless of community type.

As a former mayor and volunteer firefighter from Mississippi, I am very concerned that the needs of rural America are not adequately being considered when DHS allocates homeland security funding. Maintaining a State minimum of .25 percent for most States and .45 for certain border States strikes a difficult, but necessary, balance. On one hand the government must consider risk in distributing the funding. On the other hand, the government must ensure that each State will have the funding to reach a minimum level of preparedness.

H.R. 1544 does not mean that all funding will go to States and communities with a high population or high threat. For the first time, DHS will assess risk in every community regardless of whether it is urban, suburban, or rural. After all, we do not know where terrorists will strike next.

One issue that is very important to my State is the issue of flood control levees. I worked to ensure that flood control levees are included in the definition of dams on the critical infrastructure.

This bill establishes a First Responder Grant Board to prioritize grant applications using threat, vulnerability, and consequences. Mr. Chairman, H.R. 1544 also helps target funding to the essential capabilities of first responders in order to prevent, prepare for, and respond to acts of terrorism.

But this bill is not perfect, Mr. Chairman. There are personnel shortages that ought to be covered in this program. There are a number of other things that I look forward to working with the chairman on correcting in other legislation. However, for what we have before us today, I am in support of it from the outset. It is the right thing to do. We have to target the resources based on risk. This legislation does that.

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

Mr. COX. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from the State of New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I am proud to be here today to strongly urge the support of this legislation. It is absolutely vital for our Nation's interests and for the interests of first responders throughout the country that this legislation be adopted and that we do all we can to have it implemented and signed into law.

At the outset, I want to commend the gentleman from California (Chairman COX) for the leadership he has given to the Committee on Homeland Security; the gentleman from Mississippi (Mr. THOMPSON), ranking member, who has demonstrated the ultimate in bipartisanship; and the gentleman from New Jersey (Mr. PASCRELL), my old friend and ranking member on our subcommittee, who fully appreciates and understands just how vital this is.

He was there with President Bush and a number of us just 3 days after the attacks of September 11 at the World Trade Center, at Ground Zero. We saw the terrible devastation, and all of us promised that day and afterwards never ever to allow our first responders to be put in a position where they were not adequately equipped, adequately ready, and suitably trained and prepared to cope with such a mammoth attack as that and also that they have all the equipment and everything that has to be done to be prepared.

I think it is a tribute to the fact that our committee is now a permanent committee. The Committee on Homeland Security is now a permanent committee that will be able to marshal these resources and bring about such a bipartisan effort.

Those of us who come from the area of near Ground Zero, certainly in my district and the adjoining districts, we lost many, many hundreds of people on that day. People from the financial services community and fire service, police service, all of them lost their lives. We promised never ever to put them in that position again. Unfortunately, for the last 3½ years, we have had a situation where money has not gone where it is needed. It has been spread far and wide. And as a result, the protection that those people need was not given.

This bill we are passing today is based on threat analysis. I wish that my State was not such a high target, but it is. And so long as it is, it is important that we get the funding that is needed. But there are States around the country, there are agricultural areas, rural areas, all of whom are also high targets, and they must be compensated. And that is what this bill does. It provides a threat analysis for the entire country, for areas that need it, whether they be urban, suburban, rural, agricultural. The fact is they will get the assistance they need if they need it.

And that is what this has to be about. It has to be a question of emergency preparedness for those who are the targets, those who are in the cross hairs, those of us who are directly threatened by al Qaeda.

So in the aftermath of 9/11, we said our lives will never again be the same. Unfortunately, for 3½ years, we never really faced up to that challenge. We never stood up and did what had to be done.

We are doing it today. This is the first major step since September 11 in adequately and effectively responding to the needs of our first responders who are there to respond for us. And now we are finally responding for them the way they responded for us on 9/11.

It is not just Ground Zero. It was the Pentagon. And it could be any city or State or locality afterwards. But if we are going to be effective in coming up with defenses, it must be based on threat analysis. That is what this does. It took heroic efforts on both sides of the aisle to bring this about. Today's vote will be the culmination of that in the House, a first major step.

So I urge the adoption of H.R. 1544. I again commend both sides of the aisle and especially the gentleman from New Jersey (Mr. PASCRELL), my ranking member, for the energy and the drive and dedication that was put in to bring about this legislation.

Again, I urge adoption of the legislation.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 5 minutes and 15 seconds to the gentleman from New Jersey (Mr. PASCRELL), ranking Democrat on the subcommittee.

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

Mr. PASCRELL. Mr. Chairman, first of all, to the gentleman from New York (Mr. KING), chairman of the subcommittee, it is an honor to work with him. He understands the depth of concern of the American people. He understands the depth of concern of our first responders, police and firefighters, EMS. And understanding their day-to-day situation in the face of terror, he fashioned legislation; and I am glad he made me part of it.

These are difficult times. The last chapter of the 9/11 Commission report, Mr. Chairman, is not just by coincidence. The subtitles of the sections in that final chapter, chapter 13, ''Unity of Effort.'' Across the foreign/domestic divide, unity of effort, as far as the intelligence community is concerned, the sharing of information. The unity of effort in the Congress, section 13.4. It was not just a coincidence that the 9/11 report finished with that unity.

If there is anything that has brought us together, it is this tragedy. We need to remember that as we battle on the floor the different issues and we forget that we are here to do the people's business.

□ 1145

So I applaud the gentleman from California (Chairman COX) and I applaud the ranking member, the gentleman from Mississippi (Mr. THOMPSON), my very good friend, for their tireless work in navigating H.R. 1544 through the political maze that is Capitol Hill. Our men and women on the front lines applaud you.

I want to commend my good friend the gentleman from New York (Mr. KING), the chairman of the Subcommittee on Emergency Preparedness, Science, and Technology for his diligent work. As the ranking member on this panel, I have seen firsthand the expertise and the passion the gentleman brings to matters affecting our Nation's first responders.

We know that homeland defense cannot be marred with reckless partisan squabbling. We know that our Nation's security cannot be sidetracked by the parochial concerns of the few. That is why every single member of the Committee on Homeland Security supports this legislation. Indeed, when was the last time we all supported anything?

Different Members representing widely varying regions and constituencies have all come together in a bipartisan manner to bring H.R. 1544 to the floor today. It is the culmination of a lot of work. A lot of staff members helped in bringing this before the Congress.

As we all know, our first responders, whether they are firefighters, law enforcement or EMS providers, are the first ones to arrive on the scene of any major incident and the last ones to leave. So it is crucial that we ensure that Federal money designed to better equip and train all of those first responders actually reaches down to where it is needed most.

Unfortunately, the system of distributing grant funding to the local level is fundamentally broken. We have a system where grant funding is distributed to a large extent on minimum funding allocations rather than risk. It is wrong, and it is counterproductive to national security, we have found out.

But you do not have to take my word for it. A wide array of sources have warned us of the dangers of dispensing terrorism preparedness money on arbitrary political formulas. On page 396 of the 9/11 Commission report, and I will conclude on this remark, states, ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.''

Our current distribution of funding leaves a lot to be desired. This bill changes that.

I just want to conclude with this, Mr. Chairman: Too often we here in Washington are enveloped with a partisan rancor and acrimony that stunts our ability to achieve fundamental and necessary reform. Many times we have seen good policy fall victim to short-term political calculations. This cannot happen today. It will not happen today. Passing the Faster and Smarter Funding for First Responders Act will show that we take this job seriously.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. LUNGREN), the former Attorney General of California.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I thank the chairman and the ranking member of the committee for the work they have done in bringing to the floor the Faster and Smarter Funding for First Responders Act, H.R. 1544, and I rise in support of that bill.

Yesterday, we had a reminder, if we even needed a reminder, of the events of 9/11 and the aftermath. Yesterday, as we were proceeding out of this Chamber, we were urged by those who were in uniform to move faster, to move to a place of greater safety. And that is an apt analogy for the bill we bring to this floor today, because we truly are attempting to do a better job in terms of the funding on the Federal level for first responders.

There is no doubt that this Chamber, acting with the other Chamber and the executive branch, attempted as best we could at that time to come up with a comprehensive approach to get funding to first responders in view of the threat as we saw it after 9/11. But in the intervening 3-plus years, we have seen that that which we have done is not perfect, that there are improvements to be made. Certainly first and foremost among these is to establish a basis for the kinds of funding that will go out to the first responders.

This bill is a true effort to attempt to establish a rational risk assessment, that is, a rational means of determining what the greatest threat is to this country in the aftermath of 9/11, and then proceed to have the funding follow that. This is extremely important, because in some ways it goes against the grain of those of us who serve in this body who want to make sure that every single one of our districts gets the best amount of money that it possibly can.

In this particular situation, we are acting as national legislators, making a determination as to what the national threat is and then responding to that national threat in the most effective way possible. That is why I salute the chairman and ranking member. I tell my other colleagues here that this was a unanimous decision by the members of this committee. Hopefully, we will receive a unanimous decision here on the floor of the House.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

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

Mr. ETHERIDGE. Mr. Chairman, I thank the gentleman from Mississippi for yielding me time. Let me thank the chairman and ranking member. Both of them did an extraordinary job of pulling together an important piece of legislation, a complex piece of legislation, that every Member of the House should endorse wholeheartedly. Every member of the committee was a cosponsor of the legislation, myself included. I am pleased to join them as a member of the Committee on Homeland Security and in being responsible for this legislation.

This, as has been said, is a first-responder-driven bill. I want to thank the committee for accepting my amendment on agro-terrorism, an issue important all across America for our food supply. But, equally important, to have homeland security, we must have hometown security, and the formula this bill is driven by, that is what it is about.

It is good for my home State of North Carolina, because the current formula, with North Carolina being the 13th largest State in population, we end up 49th in per capita homeland security funding. I do not think we are next to last in risk. And others can say that.

The funding formula proposed in this piece of legislation will allow Federal homeland security funds to be disbursed on a threat, risk and vulnerability basis. Let me thank all of my colleagues for that, because that is the way it ought to be.

The formula follows the recommendation, as has been said, of the 9/11 Commission. The Commission said, ''Homeland security funds should supplement State and local resources based on the risk or vulnerabilities that merit additional support.'' This bill does that.

North Carolina and its critical infrastructure have significance far beyond the borders of our State. The State is home to the Nation's largest army base, the Nation's second largest financial center, three nuclear power plants, major highways, ports and airports and an agricultural economy that supplies goods to one in ten people in this country.

I am confident that the formula in H.R. 1544 will give every State the opportunity to receive adequate and appropriate funds for terrorism and prevention and response that is necessary for our local hometown heroes.

H.R. 1544 is good public policy that will make a difference to strengthen the security and safety of communities in North Carolina and across America. By putting the resources in place to address real risk and vulnerabilities, we can fight the threat head on.

Simply put, H.R. 1544 will help save lives and secure our country. I recommend this bill to all my colleagues.

Mr. Chairman, I rise today in support of H.R. 1544, the Faster and Smarter Funding for First Responders Act. I am pleased to join all the members of the House Homeland Security Committee as a cosponsor of this legislation.

This bill is good for my State, North Carolina, and for the Nation. Under the current funding formula, North Carolina, the 13th largest State by population, is 49th in per capita homeland security funding. My State is certainly next to last in risks.

The funding formula proposed in H.R. 1544 will allow Federal homeland security funds to be distributed on the basis of threat, risk and vulnerability. This formula follows the recommendation of the 9/11 Commission. The Commission said, ''Homeland security funds should supplement State and local resources based on the risks or vulnerabilities that merit additional support.''

North Carolina and its critical infrastructures have significance far beyond its borders. The

State is home to the Nation's largest Army base, the Nation's second largest financial center, three nuclear power plants, major highways, port and airports, and an agricultural economy that supplies food to one in ten people in our country.

I am confident that the formula in H.R. 1544 will give every State the opportunity to receive adequate and appropriate funds for terrorism and prevention and response. H.R. 1544 is good public policy that will make a difference to strengthen the security and safety of communities in North Carolina and across the country. By putting the resources in place to address real risks and vulnerabilities, we confront the threat head on. Simply put, H.R. 1544 will help to save lives.

I recommend the bill to all my colleagues in the House.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from California, the chairman of the Committee on Homeland Security, for yielding me time.

Mr. Chairman, I support H.R. 1544, the Faster and Smarter Funding For First Responders Act of 2005. In its report, the 9/11 Commission stated, ''Homeland security assistance should be based strictly on an assessment of risk and vulnerabilities.'' This bill overhauls the current system for first responder grants and follows the recommendations of the 9/11 Commission to allow for greater allocation on the basis of a State's or region's vulnerability to terrorist attack.

The current broken formula has adversely affected my State. In Federal funding per capita for first responders, Texas ranks 50th of the 50 States, despite the fact that Houston, Dallas and San Antonio are three of the Nation's ten largest cities. Texas also has a 1,200 mile porous border with Mexico, 14 maritime ports and an airport, Dallas-Fort Worth, that is bigger than New York City's Manhattan Island. Clearly, Texas faces a more grave threat than some other parts of the country.

The bill we are considering today provides assistance to first responders serving where the risk is greatest, determines the essential capabilities of communities and encourages regional cooperation and mutual aid agreements through regional grant applications.

Mr. Chairman, these changes to the current grant allocation procedure are essential if we are to be ready for another attack. We hope all this preparation is for nothing, but we must be prepared. H.R. 1544 ensures that we are as prepared as possible.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to gentleman from North Carolina (Mr. PRICE), a member of the Committee on Appropriations Subcommittee on Homeland Security.

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of H.R. 1544. The bill significantly improves the homeland security application and funding process by restructuring it in a way that my home State of North Carolina predicts will shorten the time it takes funds to get from the Federal to the local level by about 6 months.

The bill also will significantly improve how we assess threats by taking the decision out of the hands of DHS and creating a task force made up of experts from the Federal, State, and local levels and the first responder community to create a comprehensive means of assessing risk.

So I feel this bill has a great deal of potential. It could be a very important step in the right direction. But I warn my colleagues that we will fail in our efforts to protect the homeland if we do not take some additional steps, in particular to avoid a trade-off down the road between protecting ourselves against terrorist attacks and preparing for and responding to natural disasters.

As we vote on this bill, we are dealing with a presidential budget that would slash Federal funding for our local police by close to 40 percent through massive cuts in Homeland Security and Justice grant programs.

The Bush administration continues its trend of shifting money from natural and general disaster preparedness programs. For example, the Committee on Appropriations was recently forced to cut FIRE grants, one of the most successful Federal grant programs in existence, by over $100 million, at a time when our Nation is expecting more than ever from our understaffed and ill-equipped fire departments.

So while I applaud the committee for its work in crafting a strong bill, we ought to make clear that voting for this bill is not enough. When it comes time to make some harder choices and pay for these first responder programs that we happily authorize, we will need the same bipartisan support for those on the front lines that we see here today.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished vice chairman of the full Committee on Homeland Security, the gentleman from Pennsylvania (Mr. WELDON).

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding and thank the chairman and ranking member for their outstanding work, and the subcommittee chairs and ranking members as well.

This bill is the best indication to the first responder community across the country that Congress was listening. It was not this way 5, 6 or 7 years ago when the first funding for training first responders was being developed by bureaucrats in Washington, who had no idea of what the real threats were out there across America.

□ 1200

It was not the case over the past several years as States and counties siphoned off administrative dollars that should have gone for the first responders.

This bill changes all that because this bill is based upon the committee listening to the first responder community. It provides a more consistent approach that is based on the threats that we see out there, and it responds to the needs that were presented to us by the representative groups of the first responder community. In fact, Mr. Chairman, that is why every first responder organization in America supports this legislation. I applaud my colleagues for this outstanding work.

As to the other programs that we fund, like the grant program for firefighters which my colleague just spoke on of, I am proud of the fact that in a tough budget environment, separate from this legislation, we have appropriated over $3 billion to almost 20,000 fire and EMS departments across the country, direct allocations, not through any bureaucracy, but directly through firefighters deciding on the priorities of fire groups and EMS groups across the country. That program will see another one-half billion dollars at a minimum in the next fiscal year.

So we are taking care of the priorities and the needs, we are responding to local concerns, and the key message of this legislation is that we have listened to those people who are across America in 32,000 fire and EMS departments, thousands of police departments who every day for every call respond to America's needs.

I commend, again, the committee for its outstanding work, and I look forward to continuing the aggressive schedule the chairman has laid out before us for the Committee on Homeland Security in this session of Congress.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), a member of the Committee on Homeland Security as well as the ranking Democrat on the Permanent Select Committee on Intelligence.

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding me this time and commend him for his leadership on our new permanent committee. It is a great thing that we finally have a committee in the House to focus on what I believe is the most urgent business confronting us.

Mr. Chairman, I strongly support this legislation and I want to underscore that it is about money, but it is not primarily about money. It is really primarily about strategy.

The purpose in forming a Homeland Security Department was not to rearrange the deck chairs, but was to create one deck, one national, integrated strategy for homeland security. And by passing this legislation, which I am sure we will do later today, we now will have a strategy based on risk for distributing needed funds to our very impressive first responders.

We should not use the squeaky wheel theory for homeland security funding;

we should have a strategic view of homeland security funding. And once we pass this legislation and once we urge our colleagues in the other body to move their bill on the floor and then to reach a fair compromise in conference and enact this bill into law, we will have taken a major step forward.

This legislation, of course, does not solve all the problems. An issue on which the gentleman from Pennsylvania (Mr. WELDON), and I have focused for years is a strategy for interoperable communications for emergency responders. This requires some of the things we have in our authorization bill, but it will also require dedicated spectrum, something that I hope the Congress addresses this year and something that is the subject of legislation we have introduced on a bipartisan basis called the Hero Act.

But to conclude, Mr. Chairman, this is a very good start. It is very good work by our ranking member and by our chairman, the gentleman from California (Mr. COX); and it helps resolve a major roadblock to securing our homeland in our own districts and all parts of America.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I rise in strong support of H.R. 1544, the Faster and Smarter Funding For the First Responders Act of 2005, and I commend the gentleman from California (Chairman COX) and the gentleman from Mississippi (Ranking Member THOMPSON) for their bipartisan leadership in bringing this bill to the floor today.

On September 11, our first responders answered the call of duty, risking their lives to save countless Americans from attack. Their heroic service and sacrifice will be remembered forever.

Following 9/11, the first responder community worked hard to help us craft this legislation. We also received input from the 9/11 Commission and the 9/11 families for a risk-based approach to managing homeland security dollars.

Today's bill follows a logical approach by allowing and rewarding upfront planning at the State, local, tribal, and regional levels. We provide a risk-based management structure to direct the use of these dollars so that they can move quickly to where they are most needed.

Mr. Chairman, I am reminded that the 9/11 Commission Report called on us to respond to that tragedy with a commitment to ''create something positive, an America that is safer, stronger, and wiser.'' The bill before us today honors this obligation. It frees critical resources to first responders who need them for training and equipment. This makes us safer. It encourages regional cooperation and teamwork across town, city, tribal, and State lines. This makes us stronger. Finally, it targets our greatest risks and vulnerabilities which undoubtedly makes us smarter.

As a member of the Committee on Homeland Security, I am proud to cosponsor this legislation. It is the product of a uniquely thoughtful process with support from across the aisle and across the country. I urge my colleagues to join me in supporting this bill.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. LOWEY), who has been a constant reminder to us all about needing to do it better.

Mrs. LOWEY. Mr. Chairman, I want to thank my colleague, the gentleman from Mississippi, for his leadership on this committee and our chairman, the gentleman from California (Mr. COX). The day has come. I am delighted to be here with all of the members of the committee, and I know this will receive unanimous approval from this body.

Many of my colleagues have worked hard to ensure that the areas of our country facing the greatest threat receive their fair share of homeland security funds. Quite frankly, it amazes me that we have gone this long allocating such a large portion of homeland security funds based on everything but the threat of a terrorist attack to a particular area or region. The 9/11 Commission's report specifically states that Congress should not use this money as a pork barrel; yet, we seem to have been doing just that. We should not play politics with public safety.

There are six grant programs administered by the Department of Homeland Security. Five of these six programs are distributed based on a formula that does not take risk or threat into account. In fiscal year 2005, New York, which suffered the most catastrophic damage from terrorism on September 11, was not even in the top 10 for per capita funding. I challenge anyone who opposes risk-based funding to sit down with the first responders from New York or Virginia, that is, our police, our firefighters, our EMS workers. These are the people who responded on September 11. They should tell them that funding should be based on anything but risk.

This is not about politics; it is about common sense, good policy. It took only minutes for our police, firefighters, and EMS workers to respond to the calls for help on September 11. Over 3 years later, Congress still has not answered their cry for better funding to protect us. This change in funding priorities is long overdue. I urge my colleagues to vote ''yes'' on the bill.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Florida (Ms. HARRIS).

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

Ms. HARRIS. Mr. Chairman, I rise in support of H.R. 1544, the Faster and Smarter Funding For First Responders Act of 2005.

This critical, bipartisan, and historic legislation implements the 9/11 Commission's recommendations in streamlining terrorism preparedness grants and making certain that our first responders have the resources they need when they need them.

As police officers and first responders gather in Washington to honor their fallen comrades during National Police Week, the images of September 11 remain frozen in our minds and etched into our souls.

Since fiscal year 2002, Congress has appropriated, and the Department of Homeland Security has awarded, $6.3 billion in terrorism preparedness grants. Yet shockingly, State, territorial, and local governments have spent just 31 percent of this funding. Clearly, our first responders and the communities they put their lives on the line to protect remain dangerously at risk, all due to government bureaucracy.

H.R. 1544 requires State, territorial, and local governments to assess their greatest threats, vulnerabilities, and consequences before they request the Federal funding money. Then, it holds these Governments accountable, requiring them to issue grants to first responders within 45 days.

In closing, Mr. Chairman, this legislation constitutes a long overdue dose of common sense. The gentleman from California (Chairman COX) and the gentleman from Mississippi (Ranking Member THOMPSON) have already proven the wisdom in establishing the Committee on Homeland Security through their vision and leadership in producing this legislation so quickly.

We remember the valor of firemen—who rushed through an inferno to save others, without regard for their own safety.

We recall the courage of police officers—who braved falling bricks and mortar to provide those in danger with their hands and their reassurance.

After many years during which our children searched among athletes, movie stars, and other celebrities for their role models, they learned the real definition of the word ''hero'' on that awful day.

And as four hurricanes visited unprecedented devastation upon my district in southwest Florida last year, we learned once again how much we rely upon the bravery, expert training, and compassion of first responders when disaster strikes.

Since Fiscal Year 2002, Congress has appropriated and the Department of Homeland Security has awarded 6.3 billion dollars in terrorism preparedness grants. Yet—shockingly—state, territorial, and local governments have spent just 31 percent of this funding.

Clearly, our first responders and the communities they put their lives on the line to protect remain dangerously at risk—all due to government bureaucracy.

H.R. 1544 requires State, territorial, and local governments to assess their greatest threats, vulnerabilities, and consequences before they request Federal grant money. Then, it holds these governments accountable—requiring them to issue grant awards to first responders within 45 days.

H.R. 1544 also enables regional planning and coordination—allowing localities and States to jointly apply for terrorism preparedness grants, which must remain consistent with State homeland security plans.

Mr. Chairman, this legislation constitutes a long overdue dose of common sense. Chairman COX and Ranking Member THOMPSON have already proven the wisdom of establishing the Homeland Security Committee through their vision and leadership in producing this legislation so quickly.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I am proud to join my fellow committee members of the Committee on Homeland Security in strong support of H.R. 1544, the Faster and Smarter Funding For the First Responders Act of 2005. This bipartisan legislation was unanimously supported at both the subcommittee and full committee levels of the Committee on Homeland Security.

The chairman of the Committee on Homeland Security, the gentleman from California (Mr. COX), and the gentleman from Mississippi (Ranking Member THOMPSON) should receive high praise, as they have on the floor already this morning, for the skillful manner in which they worked so swiftly to shepherd this important bill through our committee and to the floor of the House.

Over the past 2 years, the committee has traveled around the country to listen to the first responders. We used the information garnered from these meetings as a guide in developing the first piece of legislation. H.R. 1544 seeks to remedy the problems first responders face because of a lack of guidance and standards, the need for flexibility in how they can use first responder funding, as well as just getting the money to them in the first place. It also provides a vehicle for ongoing first responder participation and planning and updating essential capabilities with the department and responds to the issue of how grants will be distributed and on what basis.

My own district, the U.S. Virgin Islands, came under scrutiny this year, particularly because of poor funding levels. When one assesses vulnerability and risk, as this bill lays out very clearly as the basis for distribution of level funding for the first time, my district would still be fairly treated and receive the funding that they need. And, importantly, H.R. 1544 will provide monitoring of the use of the funds provided for under this bill, through an office of the comptroller, which responds to the rightful concerns of the appropriators.

Mr. Chairman, most importantly, H.R. 1544 implements relevant 9/11 Commission recommendations to allocate Federal homeland security funds to first responders based on risk rather than political formulas. In doing so, we not only do what is right, but we honor the sacrifice of those who were killed and their families; and this is a bill we can all be proud of. I urge my colleagues to support its passage.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, given the evacuation yesterday that we had here at the Capitol, it is so appropriate that we are taking this bill up today. We all know that there is always room for improvement in our Nation's security. I want to congratulate the gentleman from California (Chairman COX) and his committee. They have done a great job in taking on a serious problem in our homeland security funding process.

The Faster and Smarter Funding For First Responders Act recognizes that, while we are sending significant funding out to the States for emergency preparedness, that funding and support is not always used in a timely fashion. In Tennessee, my home State, we found that between 2002 and 2004, there was nearly $85 million in Federal homeland security funds that had been unspent and not allocated.

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And there is a problem when states like mine have the Federal funds but are not disbursing them as quickly as is needed by our local communities. We have appropriated Homeland Security dollars to the States in order to ensure that funding is flexible and can be targeted to the specific needs of our local communities, and we need to work to be sure that those funds are being used appropriately.

Mr. Chairman, this bill really clarifies the appropriate uses for Federal Homeland Security grants and evaluates and annually prioritizes pending grant applications, and it is great that our local communities and our States are going to have the support they need in the communities, the guidance that they need to appropriately use the funds and put it to work, put it to good use in our communities.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from California (Mr. COX), the distinguished Chairman very much for his leadership, and the gentleman from Mississippi (Mr. THOMPSON), the ranking member for yielding. This truly is a bipartisan bill, and it falls on the backdrop of an interesting but yet telling experience.

First of all, let me take the opportunity to thank all of the Capitol Hill staff and the Capitol Hill police, all of the Sergeant of Arms staff. Sometimes we do not share the appreciation for the work that they have to do. And I want to acknowledge them for doing it in a very difficult scenario.

I think yesterday, as I rise to support this bill, particularly, as it is focused on risk analysis, which means that we will do our very best as we support our first responders in the Faster and Smarter Funding for Our First Responders Act, that we will reach out to the most vulnerable cities and areas, but in fact, we will not rest until the entire homeland is secure. I am very gratified that we are still working on empowering what we call citizen corps and to develop what I think is very important, citizen volunteers to perform critical functions in assisting, in preventing and responding to terrorist attacks, and that they should be integrated in through this process in our State and local planning.

But as I looked at yesterday and determined that a small Cessna plane could come between or come near the no-fly area of this particular region, I know that we are in some troubling times. Yes, we survived yesterday, but we survived it because it was a mistake and because there were no intentions for terrorist acts.

This speaks to the need for this legislation, in particular, as we focus on the more troubling areas or the more vulnerable areas to terrorist attacks, but it also speaks to moving quickly to authorize our Homeland Security legislation.

More importantly, one of the concerns I have, Mr. Chairman, is the whole idea of cutting-edge technology. Technology is going to be the key to the whole focus of Homeland Security. Technology at the border, technology as it relates to cybersecurity, technology in airport screening. This is a first step. And because of the heroic efforts of our first responders on 9/11 and the acts of theirs throughout this time frame, this is an outstanding legislative initiative that will set, if you will, us on a pathway of securing our local communities. I hope that we will be smart in our legislative amendments. And I do not believe we need to move forward on the Castle amendment. If there is a certification process on the donated equipment that will come to our Fire Departments, then so be it. But on liability, even volunteer or donated equipment should not endanger our Fire Departments.

This is the right decision to make with respect to this legislation. I hope my colleagues will pass it, but I hope it will be a signal that more work needs to be done.

Mr. Chairman, I rise in strong support of the legislation we consider today, H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. On April 21, 2005, I joined my colleagues in the Committee on Homeland Security to pass this important measure unanimously, and I urge my colleagues to do so today.

I thank Chairman COX and Ranking Member THOMPSON for their tremendous efforts to make this legislation bipartisan. I am an original cosponsor of this measure just as I was for that introduced in the 108th Congress, H.R. 3266, so my overall support for this initiative is abundantly clear.

I offered an amendment in the context of H.R. 3266, the rendition of today's legislation

that was introduced in the 108th Congress that proposed to increase the scope of the terrorism exercise programs that will be administered by the Secretary of DHS to include Citizen Corps Councils. Since the creation of this committee even as a select body, I have found it increasingly important that we include local ''second responders'' as often as possible when advancing emergency preparedness legislative initiatives. This body's crafting of a first responder bill as well as an authorization bill has given us an opportunity to make our preparedness exercises more thorough and ''simulated.''

A sense of Congress provision was accepted in the bill introduced in the 108th Congress. However, I offered and withdrew this amendment at the markup of H.R. 1544 because a similar provision, paragraph (11) has been included in House Report 109–65. In addition, I intend to pursue this initiative in the context of the authorization bill that will come before the House likely next week. I hope that my colleagues will work with me to further this important goal. Section 2, paragraph (11) of this report reads:

(11) Private sector resources and *citizen volunteers* can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity (emphasis added).

The Citizen Corps program was launched by President George W. Bush himself during the 2002 State of the Union address as part of the USA Freedom Corps initiative to engage Americans in volunteer service.

In only 2 years, nearly 1,000 communities around the country, encompassing 40 percent of the U.S. population established Citizen Corps Councils to help inform and train citizens in emergency preparedness and to coordinate and expand opportunities for citizen volunteers to participate in homeland security efforts and make our communities safer. Fifty-two states and territories also formed State level Citizen Corps Councils to support local efforts.

Our families need to be aware of the threats that exist from abroad. Homeland security is a very important issue that we may not think about in our daily lives.

The Houston branch of the Citizen Corps Council is headquartered in my Congressional District, Harris County, which is in southeastern Texas, comprises 1,779 square miles, and encompasses the city of Houston, 32 additional smaller cities, and is the home for nearly 4 million residents. Harris County is the third most populous county in the United States and one of the most culturally diverse.

This report language that I cited above is a good step toward getting the necessary funding and support needed to implement the Citizen Corps concept. Overall, the threat-based grant provisions found in the underlying legislation will help high-density threat-laden cities such as Houston, TX.

Harris County is home to numerous potential terrorist targets:

The Port of Houston, which ranks first in the United States in foreign waterborne commerce, is the leading domestic and international center for almost every segment of the oil and gas industry, houses almost half of the Nation's petrochemicals manufacturing capacity, is the world's sixth largest seaport and the Nation's largest oil port;

The Texas Medical Center, with 42 member institutions, provides leading medical care to people from all over the world and is the world's largest medical complex serving more than 70,000 daily;

The Johnson Space Center, home of NASA's manned space program;

The fourth largest airport system in the country, with more than 43 million passengers traveling through its three area airports to domestic and international destinations;

Three national sport arenas hosting thousands of fans for popular events; and

A nuclear power plant located approximately 70 miles from the county.

Mr. Chairman, H.R. 1544 will help the Department of Homeland Security allocate the first responder grant funds more prudently and expeditiously. I support the legislation and urge my colleagues to join me.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Washington (Mr. REICHERT).

Mr. REICHERT. Mr. Chairman, I am proud to be a member of the Homeland Security Committee. I am also proud to be an original cosponsor of the Faster Smarter Funding for First Responders Act. I spent 33 years on the front lines as a law enforcement officer, and I know that this legislation is vital.

I would like to thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), the ranking member, for their leadership on this important legislation.

My home, Seattle region, is unique, sharing 150 nautical miles of maritime border with Canada and acting as hub for international trade and travel. It includes businesses such as Microsoft and Boeing. All these factors combine to create an area vulnerable to a terrorist attack.

We must make sure that Homeland Security dollars are going where they are needed, as the 9/11 commission report specifically recommended, and that they are properly spent once they are allocated.

This legislation addresses the most important aspect of Homeland Security, and that is evaluation of threat and risk. In this bill, we make sure the majority of first-responder funding is threat-based. The current model is outdated, distributing more money to areas with fairly benign risks than to areas that we know terrorists would like to attack, like New York City and the Capitol of our great Nation.

I ask that the House take action today and move for more effective risk-based funding for first responders. Again, I would like to thank the Chairman and the ranking member for their hard work.

Mr. THOMPSON of Mississippi. Mr. Chairman, at this time we do not have another speaker, and I would like to reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Texas (Mr. MCCAUL).

Mr. MCCAUL of Texas. Mr. Chairman, I would like to also thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), the ranking member, for their bipartisan leadership on this very important legislation.

Mr. Chairman, I rise today in strong support of the Faster and Smarter Funding for First Responders Act, and I am proud to be an original cosponsor of this bill.

Among its provisions, this historic legislation changes the current process by which our first responders get their much-needed resources.

It is clear that the Nation is moving in the right direction in its attempt to meet the security challenges of its post-9/11 world. All involved should be commended.

However, the current first responder grant system is in need of repair. We must make sure that those who stand on the front lines and answer the call have the vital resources immediately. This commonsense bill accomplishes this.

Despite the fact that my State of Texas is home to the President's ranch, the largest port in the United States, the Port of Houston, and has an international border with Mexico, it ranks dead last in the amount of Homeland Security money it receives per person.

Unfortunately, many other key target states like California, New York, Pennsylvania, Florida, Illinois, and Virginia, join Texas in this distinction.

To ensure that the States with the biggest risks and threats get the necessary money to protect themselves, our Nation must move towards a risk-based funding system.

Those like al Qaeda, who wish to do harm to America, have a track record of being patient and conspiring until they succeed in their terrorist agenda. By passing the Faster and Smarter Funding for First Responders Act, we are placing a priority on securing our Nation's most essential and at-risk targets as quickly as possible.

Mr. THOMPSON of Mississippi. Mr. Chairman, I continue to reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from the State of New York (Mr. FOSSELLA).

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

Mr. FOSSELLA. Mr. Chairman, at the outset, let me thank the gentleman from Mississippi (Mr. THOMPSON), the ranking member, and especially the gentleman from California (Chairman COX) for his leadership and understanding of this very complex but critical issue, as well as all Members, especially those from New York who have worked on this, such as the gentleman from New York (Mr. KING) and especially the gentleman from New York (Mr. SWEENEY) who have been dogged in ensuring that New York as well as all communities get their fair share to deal with Homeland Security.

Currently, Federal Homeland Security funds, and I would like to engage the Chairman in a colloquy, if I may, can be used for overtime but cannot be used to provide any support to law enforcement activities dedicated exclusively to counterterrorism. It is also prohibited to use the money for construction, which is often the very thing most needed for hardened targets.

New York City has by far the largest force dedicated exclusively to counterterrorism. Every single day, we have hundreds, if not thousands of police officers protecting the lives of not just New Yorkers, but the millions who come to New York City to work and to vacation. Its officers span the globe, from Guantanamo Bay to Israel to Afghanistan, working in many instances with federal and foreign officials on intelligence initiatives. These officers have the unique role of safeguarding America's largest city, home to some of the Nation's most symbolic buildings and landmarks, several Federal assets and the country's economic center.

Just as the unique nature of the Capitol complex requires a dedicated force, the Capitol police, which does a great job every single day, New York needs its own dedicated force to help prevent terrorist strikes against New York's 8 million residents, its millions of tourists, and its numerous national landmarks and those Federal assets I mentioned.

I submitted an amendment addressing these issues to the Rules Committee. I understand the Chairman and others expressed concern over the amendment, and given the situation, I withdrew the amendment and asked the Chairman to work with me on this important issue as the bill moves forward towards conference.

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

Mr. FOSSELLA. I would be delighted to yield to the gentleman from California.

Mr. COX. Mr. Chairman, I would like to note that the bill before us today expressly permits grant recipients to use, with the approval of the Secretary of Homeland Security, up to 10 percent of their covered grant funds for measures to protect critical infrastructure, and this would include building barriers, fences, gates and so on. In the case of New York, that would mean that $21 million would be available for this purpose.

The question of using Federal grant funds to pay for the salaries of local law enforcement officers is a very consequential one with impacts far beyond New York. The resolution of that question and all of its complexity is beyond the scope of this bill, but I want the gentleman to know that I appreciate the gentleman's comments, and I will look forward to working with him on these issues in the future.

Mr. FOSSELLA. Mr. Chairman, reclaiming my time, I thank the chairman again for this and what we will seek to achieve as well in the future.

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

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I would like to thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), the ranking member, for bringing this legislation to the floor.

All of us are engaged in trying to make America safer during these times of turmoil and terrorism. Currently, what we are doing is distributing money based simply on formulation, where the only variable is based on population.

We are recognizing that terrorists are going to work one step ahead of us. We are recognizing that the threats will be imminent, and we must have a better way to assess our funding process. In this bill, H.R. 1544, the Faster and Smarter Funding for Our First Responders, we begin to recognize that funding should be risk-based, where we assess the threats, and we are accomplishing that.

It is the first time since 9/11 that we have wrestled with the complex formulation of how to distribute funds out and to achieve better and safer Homeland Security.

In this bill, for the first time, risk and threat assessments are being included. And for myself, representing a rural district where we have 180 miles of Mexico border, with only 150 miles of that simply with no fence, we are interested in threat assessment and risk assessment.

New Mexico also has agriculture, food, energy, dams and health care facilities, as well as energy, oil and gas, and we must consider those, the risk of those facilities and to those industries, as well as simply population-based risks. So for the first time, rural America is being able to define the capability with which they should have to prepare for terrorist attacks.

The Task Force on Terrorism Preparedness will assist the Secretary of Homeland Security in updating, revising and replacing essential capability for terrorism preparedness, and will consist of members from both rural and urban areas.

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Mr. Chairman, I again thank the ranking member and the chairman for bringing this bill forward. I think America will be better served.

The Acting CHAIRMAN (Mr. TERRY). The gentleman from California (Mr. COX) has 1 minute remaining.

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

Mr. Chairman, let me again thank the chairman of the committee for working with the minority on this legislation. It has been a very bipartisan effort. It speaks well for his leadership. I compliment him on it.

I look forward to the passage of this legislation and working on other pieces of legislation of mutual agreement which we have already discussed. It appears that additional legislation will be forthcoming. I would like to thank the ranking member of the committee, the gentleman from New Jersey (Mr. PASCRELL), for providing me significant leadership in this legislation.

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

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

Mr. Chairman, I want to return the compliment to the gentleman from Mississippi (Mr. THOMPSON). This has been a collaborative effort for several years now. I also want to pay homage to the gentleman from Mississippi's (Mr. THOMPSON) predecessor, Mr. TURNER of Texas, who also led the minority ably on this issue.

Today we have an opportunity to establish a new grant process to provide better support to the brave men and women who are the first to rush into burning buildings, the people who place themselves in the line of fire to protect the innocent, the ones who save the sick and wounded under the most trying of circumstances.

It is no accident that this bill has been endorsed by every major first responders group in America, by the Bush administration, by the 9/11 Commission; and, indeed, I expect it will receive a strong endorsement from our colleagues on both sides of the aisle.

I encourage my colleagues to vote in favor of H.R. 1544. By passing this bill, we will take yet another important step since September 11 to help our Nation meet the urgent challenge of terrorism in our cities and hometowns.

Mr. HASTERT. Mr. Chairman, just yesterday we saw the important role that first responders play in keeping our nation safe. I want to commend Police Chief Terrance Gainer and the U.S. Capitol Police for a quick, professional response that protected the Members of the House of Representatives, our employees as well as the Capitol visitors.

We live in a new day when homeland security threats can come at any time, in any form. Yesterday's events highlight how important it is that the United States stays vigilant and prepared. H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, is a much-needed step towards that effort.

This legislation cuts the red tape and streamlines the grant system so that desperately needed preparedness funds can get to communities without delay on the part of the Federal Government. In exchange, it establishes measurable goals so that local authorities can achieve a baseline of security for their communities. And, because we all know how much can be done working together, this bill encourages States, localities and communities to pool their resources and apply jointly for these grants. Such regional cooperation can ensure a tighter net while incurring less cost.

The bill focuses on getting funds to the communities that need them, while protecting valuable taxpayer dollars from misuse. Misuse has occurred. Shortly after the September

11th attacks, we began sending money to the States, and unfortunately, some of those taxpayer dollars went towards inappropriate uses: like air-conditioned garbage trucks, plasma television monitors and a rap song to teach children about emergency preparedness. America's homeland security is paramount. We will never become safe through waste. This legislation has safeguards to ensure that the money goes to the men and women on the front lines of the war on terror in the United States, our first responders.

A number of groups representing those first responders have come out in support of this legislation, including the International Association of Fire Chiefs, the Fraternal Order of Police, the National Troopers Coalition and the National Association of Emergency Medical Technicians.

H.R. 1544 will make the homeland security grant program more effective. It fulfills the recommendations of the 9/11 Commission, which cautioned in its report last year that Congress should not use terrorism preparedness dollars as ''a pork barrel.'' And most important, this legislation will get first responders the money they need to do their jobs.

Yesterday, we saw how the United States has become more skilled in its homeland security efforts. We're doing better, but there's still room for improvement. We cannot rest until we've enacted every means possible to protect the United States from those who would cause us harm. Today's vote will go a long way towards keeping this country safe for American families.

Mr. MARKEY. Mr. Chairman, I rise to express my support for H.R. 1544, the Faster and Smarter Funding for First Responders Act, and to reiterate the importance of the Urban Area Security Initiative, UASI.

Since the establishment of the UASI program, communities that the Department of Homeland Security has designated as being subject to a high threat of terrorist attack have received the funding to develop coordinated, integrated plans that leverage the capabilities of the cities and towns within the UASI region that are needed to respond effectively in the event of a terrorist attack.

During committee consideration of this legislation, I prepared an amendment to amend the bill to include within the ''region'' definition any geographic area that has been designated by the Department of Homeland Security as a high-threat urban area as part of the Department's UASI program. My amendment was intended to permit these UASI regions to continue their important plans and strategies to prevent, prepare for, and respond to terrorist attacks. I noted that the UASI program is consistent with the purpose of H.R. 1544—namely that resources should be set aside for communities faced with unique threats and vulnerabilities, such as extensive critical infrastructure and large populations, which make them tempting targets for terrorists.

After receiving assurances from the chairman that he shares my interest in refining the legislation's definition of region, I withdrew my amendment. I understand that the chairman has discussed this important issue with the States and the UASI jurisdictions, and I appreciate the chairman's pledge to work with me, the UASI jurisdictions, and the States to address the UASI designation issue as this legislation moves forward.

It is my hope that the UASI program will be preserved in the final version of the legislation we are considering today. The Faster and Smarter Funding for First Responders Act appropriately directs resources towards those areas that face the highest threat of a terrorist attack, rather than disbursing homeland security funds without regard to risk. The 9/11 Commission has endorsed this risk-based approach to homeland security funding, the UASI program is consistent with this methodology and should be preserved.

Mr. CASTLE. Mr. Chairman, I rise today to express my support for a fair and effective system of distributing homeland security grants to our nation's courageous first-responders. As a former Governor, I have long been concerned about our government's ability to accurately assess national threats, risks, and vulnerabilities. For this reason, I have been an adamant proponent of improving and streamlining the application and distribution process for these important grant programs.

The current grant allocation system is largely population-based. While population is an essential factor, the top priority for determining the needs of our first-responders must be based on the risk of terrorism and vulnerability of a community. The 9/11 Commission predicted in their report that one of our greatest challenges would be how to allocate these limited resources, and I agree. With the tragic memories of that clear September day still fresh in our minds, it is obvious that first-responders in high-risk and high density areas, such as New York City and Washington, DC, deserve an increased per capita share of the homeland security funding.

While it is essential that we update the distribution process to better reflect an assessment of risk, it is also important that we ensure the homeland security needs of small States and rural areas do not go unnoticed. In its report, the 9/11 Commission notes that due to the overwhelming focus on specific high-risk areas, terrorists might begin turning their attention to ''softer,'' less protected targets. As representative of our nation's sixth smallest State, I am concerned that in improving the current system, we might inadvertently overlook citizens in States considered less likely to be vulnerable. In Delaware, the State Emergency Management Agency has expressed some concern that our critical infrastructure may be neglected. Such omissions could force small States like Delaware to dip into other important programs, such as disaster prevention, in order to provide the resources and personnel necessary to handle certain attacks.

While this legislation makes an important change in the distribution of homeland security funding by focusing resources on high-risk areas, the challenge to define these risks remains. In fact, the Department of Homeland Security has never undertaken a comprehensive national risk assessment, and will not complete their current study until at least 2008. A national risk evaluation is imperative for determining how to allocate first-responder grants, but obviously a thorough study will not be available for several years. Without a detailed study of our Nation's vast critical infrastructure, the Department cannot truly know what level of funding should be dedicated to large States, small States, urban areas, or rural communities.

To ensure first-responders across the country have access to effective homeland security funding, it is essential that we continue to provide each State with a fair and commonsense minimum-funding baseline. Currently, the Department's inconsistent methodology for extracting data about key critical infrastructure assets can potentially result in incomplete and frankly, inadequate vulnerability assessments. Minimum-funding baselines reinforce this evolving system and provide additional protection to the thousands of ''soft targets,'' by ensuring that all States receive sufficient funding to meet basic homeland security needs.

While I support the purpose of this legislation, I intend to remain engaged throughout conference with the Senate to ensure we reach a compromise for a State formula that is fair and refrains from cutting into States' preparedness efforts. Homeland security funding can be both efficient and effective and we should settle for no less.

Mrs. CUBIN. Mr. Chairman, we have all heard talk of how Wyoming and other rural States do not deserve their razor-thin slice of the Homeland Security pie because they have higher per capita funding allocations than the likes of New York, Chicago, and Los Angeles. What the per capita statistics don't tell you is that Wyoming's fiscal year 2005 share of first responder dollars amounted to around 4 percent of New York's $298.3 million.

Attacking the first responder base minimum funding level might make for a good press release, but in reality, the per capita argument holds about as much water as a wicker basket. Wyoming's population may be spread thin, but this only presents an additional challenge to our first responders, who must deal with vast areas, rugged terrain and harsh weather with limited resources.

In 2004, nearly 100,000 shipments of hazardous materials rolled through Wyoming, whose rails and roads help make up the backbone of the Northwest United States commodity corridor. Wyoming is home to national parks and landmarks, oil and gas pipelines, and coal reserves that supply over half of the States in the Nation. Wyoming houses intercontinental ballistic missiles critical to our national defense system, placed there because rural America was thought to be safe and secure.

Perhaps the First Responder Grants Board would adequately weigh these points, and perhaps not. I would rather avoid relying on such bureaucratic uncertainty. I stand in opposition to H.R. 1544's severe reduction in the base minimum funding level because Wyoming's first responders depend on these very dollars to do their jobs and keep our citizens safe.

The need for reforming the grant distribution system is clear, and I applaud the Homeland Security Committee for their efforts to incorporate risk assessment and hold States accountable for how they spend those dollars. But I simply cannot support a bill that marginalizes the needs and unique challenges faced by first responders in rural States like Wyoming.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise today in strong support of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

The bill we are voting on today is an important piece of legislation designed to better support our first responders so that they can help protect and defend our citizens against terrorist attack.

I strongly support H.R. 1544 and am proud to be a cosponsor, along with all of my colleagues on the Homeland Security committee,

from which this legislation passed unanimously.

I would like to congratulate Chairman COX, Chairman KING, Ranking Member THOMPSON and Ranking Member PASCRELL for bringing this bill to the floor in an expeditious and bipartisan manner.

The core principle of the bill is to ensure that homeland security is always viewed through the lens of directing resources to address urgent security vulnerabilities in our country.

Security funding is fundamentally different than other funds such as highway money, where we try to spread the funds more-or-less evenly, and this bill reflects the changes needed in our thinking to address our homeland security needs.

I would also like to thank the chairmen and ranking members for including language from my proposed amendments that will:

Create an office of Comptroller within ODP to ensure oversight and accountability over funds moving through the pipeline;

Study the effects of waiving the Cash Management Improvement Act, so that its good governance intent does not have adverse consequences; and

Grant conditional authorization to the Secretary of Homeland Security to make direct payments to localities, should States be unable to pass grant funds through to the local recipients in a timely fashion.

These are all important tools that will ensure that resources necessary to protect our citizens are disbursed quickly and with strong accountability.

In closing I would like to reiterate my strong support of H.R. 1544 and urge all my colleagues to vote yes on this important piece of legislation.

Mr. CANTOR. Mr. Speaker, I rise today in support of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. This essential legislation establishes common guidelines for the federal departments that currently oversee our Nation's existing terrorism preparedness programs.

Since the attacks of September 11, 2001, our Nation has greatly reinforced our terrorism response capabilities. Over $30 billion has been invested in state and local terrorism and natural disaster preparedness programs. Still, more needs to be done.

We must remain vigilant and continue to strengthen our defenses, take proactive measures, and ensure that first responders are properly equipped. Though difficult, it is vital that we balance resources between all Homeland Security related fields to maximize our ability to protect the American people.

This legislation will provide assistance to areas of our country facing greater risk, while ensuring that all areas are provided the necessary support, streamlining existing terrorism preparedness grants, establishing measurable goals, and creating new regional terrorism preparedness grants.

In addition, a board of appropriate Homeland Security officials will be created to evaluate the nation's high risk areas. I will fight to illustrate the vulnerabilities and high level of risk that confronts the 7th District of Virginia on a daily basis. I will ensure the proper data illustrating the risk to these localities is taken into account.

First responders are America's first and last line of protection against murderous terrorists who seek to harm the innocent. Ensuring effective and efficient funding for our first responders is one of my highest priorities as a member of Congress.

I urge passage of this legislation.

Mr. BISHOP of New York. Mr. Chairman, I rise in strong support of H.R. 1544, The Faster and Smarter Funding for First Responders Act.

As yesterday's scare in this Capitol and across Washington, DC reminded us, we need to make sure that our early warning system and first response capability are highly efficient functions of our national security preparedness.

First responders are the backbone of our national security. I am privileged to represent New York's finest firefighters, medical technicians, hospital employees, and other first responders I'm proud to call good friends.

We owe them all the resources they require to carry out the many dangerous and critically important missions to secure our borders and prepare this Nation for emergencies.

I applaud the Homeland Security Committee for producing a bipartisan bill that refines our first responder grant process to make sure funding we authorize is delivered quickly and efficiently to the brave men and women we call upon to protect us from the daily threats we face.

After we pass this bill, I look forward to working with my colleagues toward restoring funding in the homeland security budget and addressing other shortfalls limiting the ability of first responders do their jobs.

Mr. Chairman, we must guarantee that our home town heroes are properly funded and completely equipped and prepared to protect this Nation. I encourage my colleagues to support this bill in order to help this Nation's courageous and outstanding first responders achieve this mission.

Mr. SALAZAR. Mr. Chairman, I rise today to express my support for H.R. 1544, The Faster and Smarter Funding for First Responders Act.

My colleagues and I agree there is a need to reform the current system for funding first responders across our Nation. The Department of Homeland Security and this Congress should allocate Federal funds based on risk in order to protect critical infrastructure and high profile targets from attack. I do want to take this opportunity to express my concern that largely rural states such as Colorado will see a decrease in Homeland Security grant funds. As states prepare their risk assessment and the Department of Homeland Security evaluates them, I urge all parties to place high priority on protecting facilities such as dams, reservoirs and other potential targets outside of urban centers. I also urge the proper authorities to take advantage of the provisions in this bill that allow the formation of regional cooperatives to pursue Homeland Security funds.

Mr. Chairman, as we witnessed yesterday, our Nation is better prepared for security threats, but much work remains to be done. It is my hope that the important reforms contained in this bill will speed the delivery of money to the appropriate agencies and funding will be directed to where it is needed the most.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today in support of this bill, the Faster and Smarter Funding for First Responders Act.

This is a common sense bill that will address the problems in the current formula that has been used to distribute first responder funding over the past 3 years.

Since the September 11, 2001, terrorist attacks, the Homeland Security Department has provided nearly $10.5 billion directly to state and local "first responders," such as emergency personnel, law enforcement and other agencies, to enhance their ability to prepare for and respond to terrorist attacks.

The USA PATRIOT Act guarantees each state, plus Puerto Rico and the District of Columbia, at least 0.75 percent of the total funding available under the formula-based program. In allocating funding over the past 3 years, the Homeland Security Department's Office of Domestic Preparedness has provided the base amount, and has then distributed the remaining funding based on population.

Under the current system in FY 2004 my home State of Texas received the second lowest amount of funding per capita, receiving only $5.35 per person, despite having the longest international border of any state, the second largest foreign port, and being home to the Johnson Space Center, as well as hundreds of energy production facilities and chemical plants. Wyoming however, which has no international borders or major metropolitan area, received $37.94 per capita.

In its report, the September 11 Commission urged that first responder grants be distributed on the basis of risk, and this bill does that by lowering the minimum guarantee for each state to 0.25 percent, or 0.45 percent for states that have an international border, and by requiring that the State Homeland Security Grant Program, the Urban Area Security Initiative and the Law Enforcement Terrorism Prevention program be distributed based on 16 threat criteria. This will ensure that Texans are not receiving $32.59 less per capita than citizens in Wyoming.

H.R. 1544 will also require states to develop 3-year homeland-security plans for enhancing their preparedness and response capabilities, and it requires all applicants, which will be expanded in this bill to also include regional organizations in addition to state agencies, to be consistent with the plan.

I strongly support these provisions because it will allow funding to go directly to the communities that need it most, rather than being funneled through the state, and it requires that applicants specify how their grant fits into the plan. Over the past several years there have been numerous reports of states spending homeland security grant dollars on items such as traffic cones in Des Moines, air-conditioned garbage trucks in Newark, NJ, and bullet-proof vests for dogs in Columbus, Ohio. A recent report about Texas found that the Texas Engineering Extension Service, the agency which distributes Homeland Security funds in Texas, was not providing proper oversight and cities and counties were spending this money on questionable items. This is not how Homeland Security dollars were intended to be spent, and this bill will cut down on the frivolous and excessive spending that has taken place with this money over the past 3 years.

Mr. Chairman, because this bill creates a formula to distribute grant money based on threat criteria, because it provides for better oversight of spending, and because it allows regional organizations as well as states to apply for grant funding, I strongly support this

bill and would urge my colleagues to do the same.

Mr. CARDIN. Mr. Chairman, I rise in strong support of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. This bill will: give priority assistance to first responders facing greatest risk; require input from first responders when setting criteria for grant applications; streamline terrorism preparedness grants; set specific, flexible, and measurable goals for state and local government terrorism preparedness; and for the first time authorize regional terrorism preparedness grants.

In the 108th Congress I was privileged to serve on the Select Committee on Homeland Security, the predecessor to the permanent Homeland Security Committee, which has brought this bill to the floor today.

This bill implements one of the most important recommendations of the 9/11 Commission, which stated that "homeland security assistance should be based strictly on assessment of risks and vulnerabilities . . . [F]ederal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel."

Under this legislation, states for the first time must prioritize their spending among their jurisdictions based on risk, threat, vulnerability, and consequences of a terrorist attack. This legislation includes new criteria that I authored in committee which will benefit Maryland. For example, the bill requires the Department of Homeland Security (DHS) to consider, when making grants, whether the state or local government has a significant transient commuting or tourist population, such as Marylanders who commute back and forth between Washington, Baltimore, and the suburbs. The bill also authorizes DHS to consider whether the state or local government has a close proximity to specific past acts of terrorism (such as the Maryland suburbs of Washington, DC), or the known activity of any terrorist group. The bill authorizes grants to regional governments with a population of more than 1.65 million people, which would allow the Baltimore metro region, and the surrounding counties of Baltimore, Howard, and Anne Arundel to apply for regional counter-terrorism grants that will help to prevent an attack and better prepare the county governments to respond in a coordinated fashion to an attack. The bill also requires states to make timely awards to state and local government, and requires an 80 percent pass through within 45 days.

This legislation is an important improvement in our commitment to a strong homeland defense and deserves our support.

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

The Acting CHAIRMAN. All time for general debate has expired.

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

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

H.R. 1544

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 ''Faster and Smarter Funding for First Responders Act of 2005''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In order to achieve its objective of preventing, minimizing the damage from, and assisting in the recovery from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to prevent and respond to a terrorist attack.

(2) First responder funding is not reaching the men and women of our Nation's first response teams quickly enough, and sometimes not at all.

(3) To reform the current bureaucratic process so that homeland security dollars reach the first responders who need it most, it is necessary to clarify and consolidate the authority and procedures of the Department of Homeland Security that support first responders.

(4) Ensuring adequate resources for the new national mission of homeland security, without degrading the ability to address effectively other types of major disasters and emergencies, requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-September 11 priorities, on the other.

(5) While a discrete homeland security grant making process is necessary to ensure proper focus on the unique aspects of terrorism preparedness, it is essential that State and local strategies for utilizing such grants be integrated, to the greatest extent practicable, with existing State and local emergency management plans.

(6) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation's greatest threats, vulnerabilities, and consequences.

(7) The Nation's first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(8) An essential prerequisite to achieving the Nation's homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(9) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial resources required to fulfill them, to direct funding to meet those needs, and to measure preparedness levels on a national scale.

(10) To facilitate progress in achieving, maintaining, and enhancing essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(12) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

(13) An important aspect of terrorism preparedness is measurability, so that it is possible to determine how prepared a State or local government is now, and what additional steps it needs to take, in order to prevent, prepare for, respond to, mitigate against, and recover from acts of terrorism.

(14) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equipment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

''TITLE XVIII—FUNDING FOR FIRST RESPONDERS

''Sec. 1801. Definitions.
''Sec. 1802. Faster and Smarter Funding for First Responders.
''Sec. 1803. Covered grant eligibility and criteria.
''Sec. 1804. Risk-based evaluation and prioritization.
''Sec. 1805. Task Force on Terrorism Preparedness for First Responders.
''Sec. 1806. Use of funds and accountability requirements.
''Sec. 1807. National standards for first responder equipment and training.''

(2) by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"SEC. 1801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the First Responder Grants Board established under section 1804.

''(2) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1802.

''(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

''(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

''(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

''(C)(i) is located on, or within 5 miles of, an international border or waterway;

''(ii) is located within 5 miles of a facility designated as high-risk critical infrastructure by the Secretary;

''(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

''(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

''(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

''(5) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same

meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

''(6) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, respond to, and recover from acts of terrorism consistent with established practices.

''(7) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider'.

''(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(9) REGION.—The term 'region' means—

''(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

''(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

''(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

''(ii) the incorporated municipalities, counties, and parishes that they encompass.

''(10) TASK FORCE.—The term 'Task Force' means the Task Force on Terrorism Preparedness for First Responders established under section 1805.

''(11) TERRORISM PREPAREDNESS.—The term 'terrorism preparedness' means any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.

"SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

''(a) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks, especially those involving weapons of mass destruction, administered under the following:

''(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

''(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

''(b) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

''(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

''(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

''(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

"SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.

''(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

''(b) GRANT CRITERIA.—The Secretary shall award covered grants to assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for terrorism preparedness established by the Secretary.

''(c) STATE HOMELAND SECURITY PLANS.—

''(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

''(A) describes the essential capabilities that communities within the State should possess, or to which they should have access, based upon the terrorism risk factors relevant to such communities, in order to meet the Department's goals for terrorism preparedness;

''(B) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

''(C) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

''(D) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

''(E) describes how the State intends—

''(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

''(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

''(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

''(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan; and

''(G) provides for coordination of response and recovery efforts at the local level, including procedures for effective incident command in conformance with the National Incident Management System.

''(2) CONSULTATION.—The State plan submitted under paragraph (1) shall be developed in consultation with and subject to appropriate comment by local governments and first responders within the State.

''(3) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

''(4) REVISIONS.—A State may revise the applicable State homeland security plan approved by the Secretary under this subsection, subject to approval of the revision by the Secretary.

''(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

''(e) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

''(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

''(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

''(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

''(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

''(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities for terrorism preparedness specified in such plan or plans;

''(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

''(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

''(E) if the applicant is a region—

''(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

''(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

''(iii) a designation of a specific individual to serve as regional liaison;

''(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

''(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

''(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

''(5) REGIONAL APPLICATIONS.—

''(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

''(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

''(ii) shall supplement and avoid duplication with such State application; and

''(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

''(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such

a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

''(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: Provided, That in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

''(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

''(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

''(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

''(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

''(6) TRIBAL APPLICATIONS.—

''(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

''(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

''(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

''(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

''(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

''(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

''(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

''(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

"SEC. 1804. RISK-BASED EVALUATION AND PRIORITIZATION.

''(a) FIRST RESPONDER GRANTS BOARD.—

''(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

''(A) the Secretary;

''(B) the Under Secretary for Emergency Preparedness and Response;

''(C) the Under Secretary for Border and Transportation Security;

''(D) the Under Secretary for Information Analysis and Infrastructure Protection;

''(E) the Under Secretary for Science and Technology;

''(F) the Director of the Office for Domestic Preparedness; and

''(G) the Administrator of the United States Fire Administration.

''(2) CHAIRMAN.—

''(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

''(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

''(b) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in subsection (a)(1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

''(c) PRIORITIZATION OF GRANT APPLICATIONS.—

''(1) FACTORS TO BE CONSIDERED.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure. Such evaluation and prioritization shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

''(2) CRITICAL INFRASTRUCTURE SECTORS.—The Board specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the United States, urban and rural:

''(A) Agriculture and food.
''(B) Banking and finance.
''(C) Chemical industries.
''(D) The defense industrial base.
''(E) Emergency services.
''(F) Energy.
''(G) Government facilities.
''(H) Postal and shipping.
''(I) Public health and health care.
''(J) Information technology.
''(K) Telecommunications.
''(L) Transportation systems.
''(M) Water.
''(N) Dams.
''(O) Commercial facilities.
''(P) National monuments and icons.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

''(3) TYPES OF THREAT.—The Board specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the United States, urban and rural:

''(A) Biological threats.
''(B) Nuclear threats.
''(C) Radiological threats.
''(D) Incendiary threats.
''(E) Chemical threats.
''(F) Explosives.
''(G) Suicide bombers.
''(H) Cyber threats.
''(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

''(4) CONSIDERATION OF ADDITIONAL FACTORS.—The Board shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Board has determined to exist. In evaluating the threat to a population or critical infrastructure sector, the Board shall give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

''(5) MINIMUM AMOUNTS.—After evaluating and prioritizing grant applications under paragraph (1), the Board shall ensure that, for each fiscal year—

''(A) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

''(B) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under paragraph (6) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

''(C) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D); and

''(D) directly eligible tribes collectively receive no less than 0.08 percent of the funds available for covered grants for such fiscal year for purposes of addressing the needs identified in the applications of such tribes, consistent with the homeland security plan of each State within the boundaries of which any part of any such tribe is located, except that this clause shall not apply with respect to funds available for a fiscal year if the Secretary receives less than 5 applications for such fiscal year from such tribes under section 1803(e)(6)(A) or does not approve at least one such application.

''(6) ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.—For purposes of paragraph (5)(B), additional high-risk qualifying criteria consist of—

''(A) having a significant international land border; or

''(B) adjoining a body of water within North America through which an international boundary line extends.

''(d) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under section 1803(e)(5)(C) shall not be considered in calculating the minimum State award under subsection (c)(5) of this section.

''SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS FOR FIRST RESPONDERS.

''(a) ESTABLISHMENT.—To assist the Secretary in updating, revising, or replacing essential capabilities for terrorism preparedness, the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Terrorism Preparedness for First Responders.

''(b) UPDATE, REVISE, OR REPLACE.—The Secretary shall regularly update, revise, or replace the essential capabilities for terrorism preparedness as necessary, but not less than every 3 years.

''(c) REPORT.—

''(1) IN GENERAL.—The Task Force shall submit to the Secretary, by not later than 12 months after its establishment by the Secretary under subsection (a) and not later than every 2 years thereafter, a report on its recommendations for essential capabilities for terrorism preparedness.

''(2) CONTENTS.—Each report shall—

''(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to the Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

''(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

''(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

''(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

''(E) include such revisions to the contents of previous reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

''(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities for terrorism preparedness are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

''(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

''(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent, prepare for, respond to, or recover from terrorist attacks.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

''(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

''(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

''(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

''(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

''(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate such selection with the Secretary of Health and Human Services.

''(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate one or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

''(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 App. U.S.C.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

''SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

''(a) IN GENERAL.—A covered grant may be used for—

''(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness;

''(2) exercises to strengthen terrorism preparedness;

''(3) training for prevention (including detection) of, preparedness for, response to, or recovery from attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

''(4) developing or updating State homeland security plans, risk assessments, mutual aid agreements, and emergency management plans to enhance terrorism preparedness;

''(5) establishing or enhancing mechanisms for sharing terrorism threat information;

''(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness purposes;

''(7) additional personnel costs resulting from—

''(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

''(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

''(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

''(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

''(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

''(A) $1,000,000 per project; or

''(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

''(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

''(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

''(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prevent, prepare for, respond to, mitigate against, or recover from an act of terrorism;

''(13) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

''(14) paying for the conduct of any activity permitted under the Law Enforcement Terrorism Prevention Program, or any such successor to such program; and

''(15) other appropriate activities as determined by the Secretary.

''(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

''(1) to supplant State or local funds;

''(2) to construct buildings or other physical facilities;

''(3) to acquire land; or

''(4) for any State or local government cost sharing contribution.

''(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary.

''(d) REIMBURSEMENT OF COSTS.—In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(e) ASSISTANCE REQUIREMENT.—The Secretary may not require that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

''(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

''(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

''(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

''(2) COST SHARING.—

''(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State, region, or directly eligible tribe awarded after the 2-year period beginning on the date of the enactment of this section shall not exceed 75 percent.

''(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.

''(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

''(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

''(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in paragraph (2)(A) may be increased by up to 2 percent for any State, region, or directly eligible tribe that, not later than 30 days after the end of each fiscal quarter, submits to the Secretary a report on that fiscal quarter. Each such report must include, for each recipient of a covered grant or a pass-through under paragraph (1)—

''(A) the amount obligated to that recipient in that quarter;

''(B) the amount expended by that recipient in that quarter; and

''(C) a summary description of the items purchased by such recipient with such amount.

''(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each Federal fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

''(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

''(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

''(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

''(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

''(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

''(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

''(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

''(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

''(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

''(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

''(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

''(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

''(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

''(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

''(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

''(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1803(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

''(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

''(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

''(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

''(iii) the local government complies with subparagraphs (B) and (C).

''(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

''(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

''(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

''(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

''(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

''(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

''(i) shall not affect any payment to another local government under this paragraph; and

''(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

''(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

''(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by January 31 of each year covering the preceding fiscal year—

''(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

''(2) containing information on the use of such grant funds by grantees; and

''(3) describing—

''(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established by the Secretary as a result of the expenditure of covered grant funds during the preceding fiscal year; and

''(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established by the Secretary.

"SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

''(a) EQUIPMENT STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

''(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

''(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

''(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

''(D) shall cover all appropriate uses of the equipment.

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

''(A) Thermal imaging equipment.

''(B) Radiation detection and analysis equipment.

''(C) Biological detection and analysis equipment.

''(D) Chemical detection and analysis equipment.

''(E) Decontamination and sterilization equipment.

''(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

''(G) Respiratory protection equipment.

''(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

''(I) Explosive mitigation devices and explosive detection and analysis equipment.

''(J) Containment vessels.

''(K) Contaminant-resistant vehicles.

''(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

''(b) TRAINING STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

''(A) enable first responders to prevent, prepare for, respond to, mitigate against, and recover from terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

''(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

''(A) Regional planning.

''(B) Joint exercises.

''(C) Intelligence collection, analysis, and sharing.

''(D) Emergency notification of affected populations.

''(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

''(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

''(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

''(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

''(1) the National Institute of Standards and Technology;

''(2) the National Fire Protection Association;

''(3) the National Association of County and City Health Officials;

''(4) the Association of State and Territorial Health Officials;

''(5) the American National Standards Institute;

''(6) the National Institute of Justice;

''(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

''(8) the National Public Health Performance Standards Program;

''(9) the National Institute for Occupational Safety and Health;

''(10) ASTM International;

''(11) the International Safety Equipment Association;

''(12) the Emergency Management Accreditation Program; and

''(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

''(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.''.

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking ''includes'' and all that follows and inserting ''includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.''.

SEC. 4. SUPERSEDED PROVISION.

This Act supersedes section 1014(c)(3) of Public Law 107–56.

SEC. 5. OVERSIGHT.

The Secretary of Homeland Security shall establish within the Office for Domestic Preparedness an Office of the Comptroller to oversee the grants distribution process and the financial management of the Office for Domestic Preparedness.

SEC. 6. GAO REPORT ON AN INVENTORY AND STATUS OF HOMELAND SECURITY FIRST RESPONDER TRAINING.

(a) IN GENERAL.—The Comptroller General of the United States shall report to the Congress in accordance with this section—

(1) on the overall inventory and status of first responder training programs of the Department of Homeland Security and other departments and agencies of the Federal Government; and

(2) the extent to which such programs are coordinated.

(b) CONTENTS OF REPORTS.—The reports under this section shall include—

(1) an assessment of the effectiveness of the structure and organization of such training programs;

(2) recommendations to—

(A) improve the coordination, structure, and organization of such training programs; and

(B) increase the availability of training to first responders who are not able to attend centralized training programs;

(3) the structure and organizational effectiveness of such programs for first responders in rural communities;

(4) identification of any duplication or redundancy among such programs;

(5) a description of the use of State and local training institutions, universities, centers, and the National Domestic Preparedness Consortium in designing and providing training;

(6) a cost-benefit analysis of the costs and time required for first responders to participate in training courses at Federal institutions;

(7) an assessment of the the approval process for certifying non-Department of Homeland Security training courses that are useful for anti-terrorism purposes as eligible for grants awarded by the Department;

(8) a description of the use of Department of Homeland Security grant funds by States and local governments to acquire training;

(9) an analysis of the feasibility of Federal, State, and local personnel to receive the training that is necessary to adopt the National Response Plan and the National Incident Management System; and

(10) the role of each first responder training institution within the Department of Homeland Security in the design and implementation of terrorism preparedness and related training courses for first responders.

(c) DEADLINES.—The Comptroller General shall—

(1) submit a report under subsection (a)(1) by not later than 60 days after the date of the enactment of this Act; and

(2) submit a report on the remainder of the topics required by this section by not later than 120 days after the date of the enactment of this Act.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–77. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–77.

AMENDMENT NO. 1 OFFERED BY MR. BERRY

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BERRY:

In section 3(a)(2), in the quoted section 1804(a)(1) (page 24, beginning at line 3), strike ''and'' after the semicolon at the end of subparagraph (F), strike the period at the end of subparagraph (G) and insert ''; and'', and after subparagraph (G) add the following:

''(H) the Administrator of the Animal and Plant Health Inspection Service.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Arkansas (Mr. BERRY) and a Member opposed each will control 5 minutes.

Mr. COX. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Arkansas (Mr. BERRY) is recognized.

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

Mr. Chairman, I first of all want to thank the gentleman from California (Mr. COX) and the ranking member, my good friend and the distinguished gentleman from Mississippi (Mr. THOMPSON), and the gentleman from New Jersey (Mr. PASCRELL) for the wonderful work they have done on this bill and the very responsible way they have developed it.

It is a good thing when we come together in this House in a bipartisan way to try to make things better for the country. I compliment them on having that goal and objective.

The amendment I offer would simply add the administrator of Animal, Plant and Health Inspection Service to the first responders grant board.

Food safety is a very important thing. It was acknowledged as a serious

matter by the outgoing Secretary of DHS, Mr. Ridge. And I think what this does is makes it possible for the people that have the greatest expertise in this matter to have some say in the way that this is handled.

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

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

Mr. Chairman, even though I have claimed the time in opposition to the amendment, I actually want to speak in support of the gentleman's amendment.

Mr. Chairman, H.R. 1544, the bill that the gentleman would amend, as written requires the Department of Homeland Security to analyze risk in rural America. That is a big step forward. For example, the disruption to the agricultural and food sectors by acts of bioterrorism would result in considerable economic and health consequences.

This amendment will ensure that the grants board established by H.R. 1544 contain a member with expertise in this very area. The designee of this amendment, the administrator of APHIS, the Animal and Plant Health Inspection Service, is well versed in agro-terrorism. This is a wise choice.

As a part of the USDA, APHIS is responsible for safeguarding the agriculture and food infrastructures not only from pests and diseases but also biological threats. Indeed, APHIS currently works closely with the Department of Science and Technology directorate, that is, the Department of Homeland Security's directorate, and plays an important role in agro-terrorism preparedness.

Specifically, APHIS is already involved in the following: accelerating the development of countermeasures to agro-terrorism; bio-forensic capabilities; deploying diagnostic technologies; and research, development and training activities.

For all of these reasons, Mr. Chairman, as chairman of the Committee on Homeland Security, I strongly urge my colleagues on the committee and my colleagues in the House to vote in support of the Berry amendment.

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

Mr. BERRY. Mr. Chairman, it is most appropriate that this amendment will be accepted because it will give the Department of Agriculture their rightful place at the table in representing agriculture in this country in the protection of our homeland.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I appreciate the gentleman from Arkansas (Mr. BERRY) allowing me to speak on his amendment.

My district is reliant on agriculture. This amendment is very supportive of the agriculture through the APHIS program. If the administrator is allowed to participate in the grants board, it will allow us, from an agricultural standpoint, to be adequately considered. I would like to compliment the gentleman from Arkansas (Mr. BERRY) for bringing this to our attention. It is timely in terms of an amendment, and it is something that I am happy to support.

Mr. COX. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. MIKE ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I thank my colleague from California for yielding me time.

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from Arkansas (Mr. BERRY).

This amendment would add the administrator of the Animal and Plant Health Inspection Service as a full member of the First Responder Grants Board.

As an integral part of the Department of Agriculture, the Animal and Plant Health Inspection Service monitors our Nation's agriculture to protect against agricultural pests and diseases. It also works closely with the Department of Homeland Security in agro-terrorism preparedness and prevention.

Under the bill debated today, the First Responders Grants Board will be charged with prioritizing grant applications on the basis of risk. Adding the administrator to the board would help ensure this panel has the necessary expertise when considering the risks to rural America.

In my home State of Alabama, for example, agriculture is the number one industry, employing nearly half a million people. An agro-terrorist attack in Alabama could cripple our economy.

So it is essential we include these changes today to ensure that the voice of rural America is heard during the process.

I would also like to note this amendment has the full support of the Committee on Agriculture on which I sit. I thank my colleague, the gentleman from Alabama (Mr. BERRY), for offering this commonsense amendment. I also thank the gentleman from California (Mr. COX) for his efforts on this subject and urge my colleagues to support the amendment.

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

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. BERRY).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. BERRY

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BERRY:

At the end of section 1804(c)(1) (page 25, line 19), add the following: ''The Board shall coordinate with State, local, regional, and tribal officials in establishing criteria for evaluating and prioritizing applications for covered grants.''.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Arkansas (Mr. BERRY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BERRY).

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

Mr. Chairman, I too represent a small rural State. We always struggle to have enough resources to deal with some of the possible threats that we have, and one of the important resources that the gentleman from Mississippi (Mr. THOMPSON) and I share is the Mississippi River. It is an incredibly important resources to this Nation and to our national security and to our homeland security.

It is for just that reason that I offer this amendment, to draw attention to the fact that sometimes as we make public policy we tend to lose sight of the things that may be more important than the number of people involved. But most of all, when we do things in Washington, D.C., it is so very important to be in touch with the people at home.

What this amendment does is call for the Department of Homeland Security to coordinate with State, local, and tribal governments in establishing the criteria for prioritizing applications for the first responders grant. This is something that I think is critical, that we take the information and have a coordination between our local governments and the Department of Homeland Security as they make the critical decisions about where these resources will be placed.

I appreciate, again, very much the chairman and the ranking member on the subcommittee being friendly towards this amendment and receiving it well. Certainly it is something that will prevent the States from devoting significant time, resources, and funding to establish a State homeland security plan in accordance with this bill, only to find out after they apply for a grant that they have completely missed the mark on what the grant board established as its priority.

Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise in support of this amendment.

This amendment would ensure that the First Responder Grant Board would coordinate with State and local governments. Throughout this process we have sought to ensure that State, local, and tribal governments are consulted throughout this process. This amendment would make it crystal clear to DHS that we expect them to listen to State, local, and tribal governments as they make their funding decisions. I support this amendment.

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

Mr. COX. Mr. Chairman, I claim the time in opposition to this amendment, notwithstanding that I rise in its support.

The Acting CHAIRMAN. Without objecton, the gentleman from California (Mr. COX) is recognized for 10 minutes.

There was no objection.

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

Mr. Chairman, I strongly support this Berry amendment. It is completely consistent with the intent of the Faster and Smarter Funding For First Responders Act. Indeed, H.R. 1544 contains many other provisions with the same purpose: to enhance Federal, State, local, regional and tribal government cooperation in the process of establishing the criteria for prioritizing applications for covered grants. For example, the bill directs the Secretary to establish a first responders task force.

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This task force, which will advise the Secretary of Homeland Security on preparedness benchmarks, will consist of 25 members, representative of all of the first-responder disciplines and a substantive cross-section of geography from across the Nation.

The Berry amendment, in my view, will help ensure that the Grant Board's risk-based analysis adequately addresses the concerns of State, local, regional and tribal governments who, after all, have direct jurisdiction and control over the first responders who are the focal point of this legislation. This amendment will provide important comfort to covered grant applicants as the department shifts from a political, formula-driven system to one based on risk.

A dramatic programmatic shift such as the one established by this bill cannot be made in a vacuum. It must be made in close coordination with the people most affected. That is the purpose of the bill as it is written.

I think the Berry amendment clarifies that purpose in a useful way, and I strongly support it.

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

Mr. BERRY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. PASCRELL), the distinguished ranking member of the Subcommittee on Emergency Preparedness, Science, and Technology.

Mr. PASCRELL. Mr. Chairman, I support the Berry amendment. The gentleman from Arkansas has a tendency and a knack to present amendments on this floor that are reasonable, precise and relevant. This is a very relevant amendment, as our chairman just pointed out.

We need greater coordination between the Department of Homeland Security with State, local and tribal officers. I believe that this is wise public policy.

Secondly, State and local officials know better than anyone, they certainly know better than anybody in Washington, the risks and the vulnerabilities that they face. Washington must work outside of the Beltway for the greatest effectiveness.

We know in examining not only the 9/11 Commission report but every other report since the tragedy of 9/11 that the lack of coordination between the various levels of government is a very, very dangerous situation. This bill, in its totality, strikes at that very vulnerability, and this amendment, I think, precisely talks to the very important factor of coordination of those agencies.

I want to commend the sponsor of the amendment.

Mr. BERRY. Mr. Chairman, I have no further speakers. I thank the chairman and the ranking member of the committee for their consideration, and I yield back the balance of my time.

The Acting CHAIRMAN (Mr. TERRY). The question is on the amendment offered by the gentleman from Arkansas (Mr. BERRY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–77.

AMENDMENT NO. 3 OFFERED BY MR. BASS

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BASS:

In section 3(a)(2), in the quoted section 1806(d), re-designate existing text as paragraph (1), and insert after paragraph (1) the following:

(2) An applicant for a covered grant may petition the Secretary for the reimbursement of the cost of any activity relating to prevention (including detection) of, preparedness for, response to, or recovery from acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government (or both) under agreement with a Federal agency.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from New Hampshire (Mr. BASS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BASS).

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

This is an amendment that I think adds flexibility and workability to the bill. What it will do is it will allow States to petition the Secretary to use grants that are covered for expenditures that are considered anti-terrorism activities and are normally duties that would be exercised by the Federal Government. What is not currently allowed in the bill are personnel costs or agreements between State and local entities that affect a Federal agency.

The type of activities that this amendment would permit include, but are not limited to, border duties, assisting with the Coast Guard and ports, waterways, coastal security duties or detention of illegal aliens on a temporary basis until Federal authorities can take over.

What the amendment does not do is make any changes in the allocation of resources from one entity to another, and it does not allow States to petition to recover from the Federal Government costs for services that are performed by State law enforcement agencies that are not terrorism-related.

This amendment really does add flexibility to the administration of these grants. It would allow, for example, in our seacoast port of Port Smith to reimburse them for the State police boat that currently supplants those efforts being undertaken by the Coast Guard at the behest of the Coast Guard. It allows local police departments such as the police department in New Ipswich, New Hampshire, that had to detain illegals for a period of time, had to deal with them and could not get the immigration department involved quickly enough, to apply for reimbursement. It also allows local police departments to enforce border crossings, if necessary. It allows them to apply for reimbursement. It does not guarantee it, but it allows them to apply.

I hope that the committee will accept this amendment. I know we have had good discussions on both sides with it.

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

The Acting CHAIRMAN. For what purpose does the gentleman from Mississippi (Mr. THOMPSON) rise?

Mr. THOMPSON of Mississippi. Mr. Speaker, in order to speak on this amendment, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Mississippi (Mr. THOMPSON) is recognized for 10 minutes.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, only for the sake of discussion and procedure do I do that, as I am in absolute agreement with the author of the amendment.

This amendment adds an additional paragraph for reimbursement of costs that a State may incur for terrorism preparedness. It would allow for the reimbursement for activities that a State may perform which are traditionally Federal responsibilities. It is common sense, it is the right thing, and I support this amendment.

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

Mr. BASS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD), my cosponsor.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from New Hampshire (Mr. BASS), my friend, for the time.

Mr. Chairman, this amendment the gentleman from New Hampshire (Mr. BASS) and I are offering today is about allowing States and localities some flexibility with their Federal homeland security funds. This flexibility is vital, especially when States and localities are doing the job of the Federal Government. Essentially, we believe that when States and localities are performing Federal homeland security functions, they should be able to tap into Federal homeland security dollars.

First, let me say and make very clear that the gentleman from California (Chairman COX) and his committee had a tough assignment, and I very much like what they have done and respect the product that they have produced. I strongly support getting this first-responder money out of the currently clogged pipeline, and that is basically what we are trying to do here today, and my congratulations to the chairman for doing just that.

I have a major homeland security concern that I really do not think is getting nearly enough attention or funding. Additional resources are needed to help law enforcement deal with the problem of illegal aliens, a Federal issue and responsibility closely related to our security and anti-terrorism concerns. I believe our amendment would help these States and localities deal with this problem.

Last Congress, I introduced the CLEAR Act which was designed to clarify State and local law enforcement involvement in combating illegal immigration. I need not remind the body that many of the 9/11 hijackers were here illegally, that many of the World Trade Center bombers were here illegally, and many of the plotters for other terrorist acts are here illegally. Immigration and border issues are central to our homeland security and anti-terrorism efforts.

In promoting that bill, two problems were identified for law enforcement, the lack of resources and the lack of authority to do what needs to be done. While this bill does not deal with the authority part of the problem, it does deal with the resources part of the solution. Therefore, our law enforcement folks and others who are increasingly taking on anti-terror and homeland security operations should be able to access Federal funds for performing these Federal roles.

The gentleman from New Hampshire (Mr. BASS) and I have different districts, with different needs, but we agree that this language provides some flexibility to get at our individual concerns. Of course, the Department of Homeland Security has a role in oversight under the amendment so there are some checks and balances, appropriately. We are intentionally not talking about an unfettered ability to send the Feds a bill for services rendered. Neither of us have interest in that.

I urge my colleagues to support this amendment. I urge my colleagues to support the underlying bill, and I do thank the committee for working with us on this language, and I want to continue to work with the gentleman from California (Mr. COX) in addressing this critical problem.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the gentleman from Mississippi (Mr. THOMPSON) for the time.

I rise in support of the Bass-Norwood amendment. I strongly support this amendment, and I do so for several reasons.

First, since the attacks of 9/11, States and local governments are increasingly stepping up to the plate and assuming some of what have traditionally been the Federal Government's responsibilities in the area of terrorism preparedness. For example, many State and local governments have entered into agreements with the U.S. Coast Guard or with immigration and customs enforcement or other elements of the Department of Homeland Security to perform responsibilities relating to homeland security.

Second, the Bass-Norwood amendment, which would permit petitioning the Secretary for reimbursement for expenses in this regard, is fiscally responsible. It would not, for example, permit grant recipients to use covered grant funds to supplant routine State or local government expenses. It does not permit, for example, reimbursement for personnel costs.

The Bass-Norwood amendment is also properly targeted in scope. States and localities may defray the costs of their assumed homeland security duties only with the consent of the Secretary of Homeland Security, and States and localities that have assumed these kinds of duties have to have done so pursuant to an agreement with a Federal agency.

The Federal Government, in my view, should encourage States and localities to assist the Federal Government in providing security where it would otherwise be lacking, and that is what this amendment is going to help us do. To support this policy, it is incumbent upon Congress to permit State and local governments to petition the Secretary for reimbursement.

The Bass-Norwood amendment is consistent with other provisions of this bill. Specifically, H.R. 1544, the underlying bill, permits covered grant recipients to satisfy the matching requirements through in-kind contributions of goods or services, or other equipment, fuel, maintenance, personnel overtime and other costs that are associated with State and local assumption of Federal terrorism preparedness duties.

For all of these reasons, I strongly support the Bass-Norwood amendment. I congratulate its authors for presenting it before the House.

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

Mr. BASS. Mr. Chairman, I have no further speakers. I urge the support of this amendment, and I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield back.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BASS).

The amendment was agreed to.

□ 1300

The Acting CHAIRMAN (Mr. TERRY). It is now in order to consider amendment No. 4 printed in House Report No. 109–77.

AMENDMENT NO. 4 OFFERED BY MR. WEINER

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WEINER:

In title XVIII of the Homeland Security Act of 2002, as proposed to be added by the bill, insert at the end the following new section (and make such technical and conforming changes as may be necessary):

SEC. 18___. LIMITATION ON NUMBER OF UASI GRANTEES.

In carrying out the Urban Area Security Initiative, or any successor to such grant program, the Secretary may award not more than 50 grants for any fiscal year.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. WEINER).

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

The purpose of this amendment is simple. First of all, let me say what this amendment is not. This amendment is not an effort to litigate again the conflict that has arisen in this House between urban Members and rural Members. It is not an effort to revisit the formula question about the minimums. I think that the committee has done a fairly good job on trying to manage that situation, although it is not perfect. My belief is that there should be no minimum guarantee. Money should be allocated based on threats. That is the way I think it should be done, but I understand the efforts of the ranking member and the chairman to address that problem; and they have done so, I think, better than we have up until now.

The question still arises about whether or not we should have a portion of our homeland security funding stream that is dedicated for what we in Congress said we wanted in the 2003 omnibus, which is a pool of money that is designated to go, in the language of the legislation, to address the unique equipment, training, planning, and exercise needs of selected large high-threat urban areas.

We have now, through the course of time, expanded that not just to be cities; it is literally the areas around cities, the cities and the suburbs, and in

many cases it is also the ports authorities and the airports authorities of these major cities.

What my legislation would do would be to address a creeping problem that was not created by this Congress but has been created by the Department of Homeland Security. These high-threat urban area grants, which started out going to six cities, have expanded over time to the point that now they are over 50 cities, and there are also additional areas and airports authorities and the like that get it.

What my legislation would do would be to say, look, there are going to be times when we are going to want to take a city or an area, and they may be under less threat or we may want to add one, but we must not continue down the path for, I think, largely political reasons each year adding more and more and more cities to this pot.

Here is what it is doing. We in the Congress are expressing our views to increase the funding for that pool of money; but the Department of Homeland Security, by administrative fiat, is adding the number of cities that are available, therefore actually reducing the amount and percentage that the larger cities and areas have to contend with.

Now, for my colleagues who represent rural areas, my colleagues who represent suburban areas, my colleagues who represent areas that are not traditionally thought of as large urban areas, I want to assure you nothing in this amendment in any way limits your ability to get funds from this pot. Because under language written by the chairman and the ranking member, now areas can pool together. For example, if Kansas and Iowa and Nebraska want to get together and say we want to create a pool to protect against agro-terrorism, for example, they could be added as a group under my amendment very easily.

This simply says one thing: we have to stop adding more and more cities when that was clearly not the intention of Congress to do. We said in our actions that we wanted this to be a select number of areas. If the Department of Homeland Security is going to continue to add to that list, until we essentially have every single eligible city up to the limit that is laid out in the law, what is the purpose of having the bifurcated system? Maybe we should not.

I mean, I happen to believe that we were trying to address a legitimate concern that many have raised, including the 9/11 Commission, that said, look, there are some areas and cities that we want to have a distinct pot of money for.

Before I reserve, let me just make another point. We are talking about approximately 25 percent of the overall funding stream for homeland security. We are not talking about 75 or 80 percent. We are talking about a discrete amount of money, a discrete percentage of money which would be held for these 50 or fewer cities. Now, I happen to believe 50 is a very high number. When you start thinking about the 50 largest cities, the largest metropolitan areas, there are cities on the list presently that do not even have minor league baseball teams, yet they are considered major urban areas.

I am not saying that we should take all of the funds and just dedicate them to my hometown. I know that is not anything that we should do. We have a law here that is crafted to distribute money based on different types of threat, different types of ways. But we in the legislature here in Congress have said very clearly that we believe there should be a pot of money that is protected from the traditional political back and forth. Let us continue to protect that pot of money.

If you vote for my amendment, it does not mean any of your constituents are not eligible for this money. It does not mean that. But it does mean if you are one of these cities either now, in the past, or in the future, you are not going to be on the list of 300 or 400 cities. It is going to be limited to 50 at most.

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

Mr. COX. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I thank the chairman of the committee for yielding me this time to speak in opposition to the amendment.

This amendment would limit the number of urban area security initiative grants to 50. I understand what the gentleman from New York (Mr. WEINER) is trying to accomplish; and he has to do it, he is from New York. However, it is unreasonable to set an arbitrary number, in this case 50, for the number of UASI or regional grants.

In the bill, we already limit the number of regions by requiring a region to have at least 1.65 million people. This would adequately limit the number of recipients in itself. So I oppose this amendment.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume, and I too rise in opposition to this amendment.

I agree with the intention of the author of the amendment to limit the number of grant awards under the Urban Area Security Initiative, but I do not agree with the thrust of the amendment, which is to, in essence, perpetuate a system that sends money exclusively to cities and ignores regions.

One of the important reforms made in H.R. 1544 is that we open up the process to regional grant applications. I come from the most populated State in America: California. My county, just one of 58 counties in California, has 3 million people. Los Angeles, obviously, is an enormous urban center. But the important thing to note about both Los Angeles and New York is that the L.A. region and the New York City region are bigger and geographically more relevant than the city qua city. The municipal boundaries of New York or the municipal boundaries of Los Angeles are not nearly so important, if there is a radiological attack, for example, as understanding where that plume is going to go and what are the evacuation corridors.

We have learned since 9/11 we have got to have regional collaboration. In my home county, Orange County, which as I said has 3 million people, we had two cities get Urban Area Security Initiative money. This was like the fickle finger of fate that touched those two cities and gave them all the cash and ignored the County of Orange, ignored the municipalities situated right next door to them. Happily, due to the leadership of Sheriff Mike Carona and the chairman of the Board of Supervisors Bill Campbell, and the mayor of Santa Ana, Miguel Pulido, and the mayor of Anaheim, Curt Pringle, there has been a workout, a local arrangement made to equitably distribute these urban area security initiative monies. But that is not the way the program is designed.

We have made sense of it in California despite the nonsense of the Federal program itself. Perpetuating this program, trying to focus more emphasis on it is the wrong way to go. UASI is broke, and it makes no sense to place more emphasis upon it.

Finally, let me say that only regional grants, not State grants, may be able to address certain unique terrorism preparedness needs, such as risks that cross interstate or international boundaries, for example, bioterrorism or agro-terrorism. In this respect, I agree with the comments made by the author of the amendment. I think that to the extent we emphasize a regional approach, a mutual-aid approach, we will find ourselves better prepared in the future. That is the aim, one of the chief aims of H.R. 1544, the Faster and Smarter Funding for First Responders Act, and for those reasons I counsel opposition to this amendment.

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

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

First of all, in reaction to my good friend, the gentleman from Mississippi, he is incorrect. The bill defines the size of a region at 1.65 million, but it leaves open cities of any type. We do not know, since the bill is silent on that distinction. You can have a city of 20,000 and be eligible for this. You can have a city of 10,000 and be eligible. The gentleman from Mississippi is correct that a region has to be 1.65 million, but nowhere does it restrict the size of the city.

As for the chairman, the chairman, who has done an excellent job on this bill, regrettably is incorrect as well. There is nothing in my amendment that restricts this from going to cities

or to regions. As I read from line 4 of the bill: ''may not award any more than 50 grants for any fiscal year.'' If the Department of Homeland Security, which by the way this issue is somewhat vague in the bill as drafted, it is silent on how this program is going to be divided. If the Department of Homeland Security says grants are available to areas, which they have been in the past, fine. Limit it to 50. If they say it should be cities, limit it to 50.

If we take the chairman and the ranking member's argument to its logical extension, you could conceivably in this portion of the bill, which the language says ''shall be to exercise the needs of selected large, high-threat urban areas,'' it could be any city of any size. And I do not believe that was the intention of our legislation.

I think what we are doing, and with all due deference to the gentleman from Mississippi, I am not just offering this because I am from New York. It could be that we add the 200 cities to this, 300 cities, 400, 500 cities, and we completely undermine the intention of this Congress when we created the program to begin with. Maybe you are right. In that case, do away with the program. It is not any longer going to be a high-threat, high-density urban area grant program. Then let us eliminate it. Put it in with the other pot of money. But if we are going to have it, let us preserve its integrity.

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

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

Mr. WEINER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me this time, and for his amendment, which I rise in strong support of.

The amendment of the gentleman from New York (Mr. WEINER) would limit the high-threat grants to 50 total grants. If this amendment were enacted, it would ensure to a greater degree that high-threat funding truly goes to what it is intended to do, go to high-threat areas.

When Congress first created the so-called high-threat program, it was limited to seven cities; yet last year that number jumped to 80 grants, with 50 cities getting funding and 30 transit agencies. This year, the Department again funded 50 cities. The practical effect is that those cities that are the highest threat may see the amount of money directed towards them diminished because of the ever-increasing pie.

For example, 2 years ago, and I give the example of the city I represent, but it could be other cities, New York City received $150 million in funding. But last year, even though we remained high-threat number one in the Nation by all accounts, by all of the intelligence agencies, last year we saw a decrease of 69 percent to $47 million. This year, again we saw a dramatic shift upwards to $214 million.

I think it is very easy to argue that New York City has been under the same consistent threat since 9/11, but this funding certainly does not reflect that. The example that I use of New York City is just one example of how it has varied widely across cities.

One of the greatest reasons for this yo-yo funding is when you increase who is eligible, you decrease your options on how you distribute. So we need to make sure that this funding is based on risk rather than political calculations, and limiting the number of grants to 50 is certainly reasonable and a fair way.

May I speak also very briefly on how far preferable the House version is to the Senate version in the underlying bill.

Mr. WEINER. Mr. Chairman, I yield myself the balance of my time.

There seems to be some misunderstanding, and I am waiting for some clarification on our side, if the majority side has clarification, because it might lead me to withdraw my amendment.

If someone will stand up and say that a city of less than 1.65 million will be ineligible to receive these grants in the future, as has been articulated by the ranking member and implied by the chairman, then we are on to something.

□ 1315

The language in the bill refers to the area which is this new thing that we are trying to do, I think, for good reason. The question is, will a city of 50,000 or 60,000 who does not form a coalition with four or five or six other cities or other regions, will they still be eligible? That is the problem.

I think that what we have here is a very good bill that continues a bifurcated system. On one hand, you have every single corner of the country eligible for money based on threat, based on the Weiner language that was introduced in committee, and I am glad you accepted; on the other side, we have this thing that now only limits the area to 1.65 million. What I am trying to do is not say a city can be on or off but say, let us limit it to 50.

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

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

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

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. WEINER) will be postponed.

Mr. CASTLE. Mr. Chairman, I ask unanimous consent to strike the last word to enter into a colloquy with the gentleman from California, the chairman of the Committee on Homeland Security.

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

There was no objection.

Mr. CASTLE. Mr. Chairman, like most of my colleagues here today, I support efforts to reform our current system to ensure that more funding for our first responders is determined on the basis of risk. The 9/11 Commission noted that one of our greatest challenges would be in how to allocate these limited resources, and I agree. The gentleman from California's determination for taking on this challenge is commendable.

As the gentleman knows, I have been concerned about the Department's ability to accurately determine national threats, vulnerabilities and consequences. In its report, the 9/11 Commission also notes that, due to the overwhelming focus on specific high-risk areas, terrorists might begin turning their attention to softer, less-protected targets.

As a Member representing our Nation's sixth smallest State by population, second smallest by size, I am concerned that, in improving the current system, we might inadvertently overlook citizens in States considered less likely to be vulnerable. In Delaware, the State Emergency Management Agency has expressed some concern that our high-risk targets may be neglected. Such omissions force small States like mine to dip into other important programs, such as disaster prevention, in order to provide necessary resources and personnel to handle certain attacks.

There needs to be some balance here and recognition that real homeland security needs exist outside of metropolitan areas. To the best of my knowledge, the Department of Homeland Security has not completed a comprehensive national risk assessment. It seems that this type of national risk assessment should serve as a basis for determining how to allocate first-responder grants, but apparently, a thorough study will not be available for several years.

I would appreciate the chairman's thoughts on this.

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

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

Mr. COX. Mr. Chairman, I appreciate the comments of the gentleman from Delaware. I would like to assure him that the bill before us today is designed to prepare every State, small, medium and large, to respond in the event of a terrorist attack.

The Department's current method for allocating terrorism preparedness grant funds has not always well served small and medium sized States, including Delaware. The current grant system takes risk into account only in a limited way by specially earmarking funds to a handful of large urban areas under the urban area security initiative. With respect to all the rest of the funding, the current system ignores the threats, vulnerabilities and consequences of acts of terrorism anywhere else in the United States. Yet

throughout America, there are populations and critical infrastructure that terrorists have within their sights.

H.R. 1544 would eliminate this anomaly by requiring a risk-based analysis that covers every part of America, urban, suburban and rural, based on objective criteria. To this end, H.R. 1544 establishes a first-responder grant board to prioritize and evaluate all applications for covered grants on the basis of risk and need.

During this evaluation and prioritization process, the grant board must consider a number of factors, including, but not limited to, various critical infrastructure sectors in all areas of the Nation, urban, suburban and rural. Indeed, the 16 critical infrastructure sectors enumerated in H.R. 1544 encompass a large number of critical infrastructure sectors, including agriculture and food, banking and finance, energy, public health and health care, government facilities, transportation systems, and water.

As Delaware's former Governor, the gentleman knows that Delaware contains a great deal of critical infrastructure, including chemical plants, banking and finance, and ports. But he and I also know that, under current law, the Department does not consider these factors in awarding grant funds to his State. Delaware has no jurisdiction that receives grant funds from the urban area security initiative. As a result, like many States under the current system, Delaware only receives grant moneys under the State homeland security grant program. But funding under that program is awarded solely on the basis of an arbitrary political formula without regard to Delaware's actual risk or need. Passage of this legislation, the Faster and Smarter Funding For First Responders Act, will remedy these problems.

Mr. CASTLE. Reclaiming my time, Mr. Chairman, I thank the gentleman from California for his comments. The gentleman is correct in that my home State, and every other State, deserves equitable consideration. I appreciate his willingness to protect adequate grant allotments for first responders in small States. I support the gentleman's goal of getting these important funds to communities where they can be used effectively and look forward to working with him throughout this process to ensure all States receive fair and realistic homeland security funding.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–77.

AMENDMENT NO. 5 OFFERED BY MR. CASTLE

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. CASTLE:

At the end of the bill, add the following:

SECTION 7. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that notwithstanding subsection (b) this Act shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This Act applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Mississippi (Mr. THOMPSON) each will control 10 minutes.

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

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

Mr. Chairman, I rise today in support of my amendment to H.R. 1544, which is identical to legislation I introduced, H.R. 1088, the Good Samaritan Volunteer Firefighter Assistance Act. This legislation overwhelmingly passed the U.S. House of Representatives last Congress, 397–3, and was also included as an amendment to H.R. 10, the 9/11 Recommendations Implementation Act. Unfortunately, it was not in the final conference report.

My amendment removes a barrier which currently prevents some organizations from donating surplus fire fighting equipment to fire departments in need. Under current law, the threat of civil liability has caused some organizations to destroy fire equipment rather than donating it to volunteer rural and other financially strapped departments. We know that, every day across the United States, firefighters respond to calls for help. We are grateful that these brave men and women work to save our lives and protect our homes and businesses. We may presume that our firefighters work in departments with the latest and best fire fighting and protective equipment when in reality there are an estimated 30,000 firefighters who risk their lives daily due to a lack of basic personal protective equipment, PPE. In both rural and urban fire departments, limited budgets make it difficult to purchase more than fuel and minimum maintenance. At the same time, certain industries are constantly improving and updating the fire protection equipment to take advantage of new, state-of-the-art innovation. Sometimes the surplus equipment has never been used to put out a single fire. Sadly, the threat of civil liability causes many organizations to destroy rather than donate millions of dollars of quality fire equipment.

Not only do volunteer fire departments provide an indispensable service, some estimates indicate that the nearly 800,000 volunteer firefighters nationwide save State and local governments $36.8 billion a year. Of the 26,000 fire departments in the United States, more than 19,000 are all volunteers and another 3,800 are mostly volunteer. Thirteen States, Alabama, Arizona, Arkansas, California, Florida, Illinois, Indiana, Missouri, Nevada, New York, Pennsylvania, South Carolina and Texas, have passed similar legislation. In the 7 years of the Texas program, more than $12 million worth of firefighter equipment has been donated and given to needy departments. This includes nearly 70 emergency vehicles and more than 1,500 pieces of communications equipment as well. In total, more than 33,000 items have been donated.

Congress can respond to the needs of fire companies by removing civil liability barriers. Equipping our Nation's first responders is essential as we fight the war on terror. I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his past support of this measure, and I am hopeful the esteemed chairman of the Committee on Homeland Security and my colleagues will again join me in supporting this measure.

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

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I oppose this amendment to the legislation. While I salute the hard work of our volunteer firefighters, it

appears to me that we have a very extreme solution to a problem that does not exist. Although the amendment purports to encourage donation of fire fighting equipment by eliminating civil liability barriers, there are no reported cases of businesses refusing to donate their equipment nor cases of volunteer fire fighting companies suing their donors. Whatever the so-called problem is could be solved or addressed without congressional action.

For example, in the 108th Congress when the similar legislation was before the Committee on the Judiciary, we heard during our committee deliberations that a volunteer fire department could simply sign a contract waiving liability of the donors from negligence resulting from the donated fire equipment. This tactic would ensure that fire companies are informed and have consented to the immunity of the donor. Congress does not have to mandate the immunity. The groups can agree to it if they want or if the donor insists.

Mr. Chairman, this is not a Federal issue. It is a matter that can be dealt with by the States. There is nothing Federal about local volunteer fire departments. This liability is a State issue, and many States have already dealt with it. For example, some States provide immunity but only after requiring certification that the equipment is safe. This amendment provides no such immunity. For the safety of our volunteers, companies should not be given blanket immunity for donating fire equipment. While it may be true that most of the equipment is perfectly usable, companies should be prevented from donating obsolete equipment known to be of dubious safety. Certain equipment, like protective gear and breathing apparatus, can deteriorate over time and may not be suitable for use. So the threat of civil liability causes some to think twice about donating dangerous equipment, equipment which may place our firefighters in danger. If this amendment passes, they will not have to be concerned about donating that dangerous equipment.

I would hope that we would defeat the amendment, allow the volunteer firefighters to waive the liability if they want, but not impose a federally mandated waiver on everybody whether they want to use it or not. I urge my colleagues to reject the amendment which may, in fact, endanger our firefighters.

Mr. CASTLE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the distinguished gentleman from Delaware for yielding the time but more importantly for offering this important amendment. The House has voted in support of this amendment before. During the 108th Congress, twice it passed the House. As a stand-alone measure, all by itself, on September 14, 2004, and when it was up on its own merits, the recorded vote was 397–3.

This is a commonsense amendment that is vitally important. It would provide protection to people who donate fire control or fire rescue equipment, but more importantly, it would better equip and protect our Nation's firefighters, and that is what this bill is all about. This bill is for our first responders. So is the Castle amendment. It will encourage fire departments, the private sector and other people to donate equipment that the firefighters desperately need so that they can better protect every American.

Many people incorrectly assume that all firefighters work in departments that have the latest and the best equipment. The reality, unfortunately, is far different. It is estimated that 30,000 firefighters every day risk their lives unnecessarily due to inadequate personal protective equipment, just to cite one example.

This is a fiscally prudent amendment. It is going to stretch our dollars. It serves the interests of taxpayers by extending the life of equipment they have already paid for. This is expensive equipment, and it ought to be used. And it provides poorer jurisdictions with capabilities they might not otherwise have and might not have the ability to attain.

I congratulate the gentleman for offering the amendment, I strongly support it, and I urge my colleagues to vote in support as well.

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

This amendment would remove civil liability barriers from the donation of fire equipment for volunteer fire companies. As a former volunteer firefighter from a small community, I understand how important it is to have the equipment you need to protect fellow citizens. Although I am going to support this amendment, the issue needs to be studied further once we get into conference. I am concerned that there are no assurances that the equipment would perform as expected, and therefore, many of the firefighters who would use this equipment potentially could be harmed.

□ 1330

We must ensure that our firefighters are adequately protected.

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

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

I will close briefly. Let me just reiterate, this has been actually before us before. It is actually a popular amendment. People want it on their legislation for the most part. So we have had a little trouble getting it signed into law because it keeps passing and then getting dropped off for various things. But we voted on it back in September, and I do not know what has changed since then. The vote was 397 to 3. To the gentleman from Virginia's (Mr. SCOTT) credit, he did vote ''no'' then. I do not know if a single thing has changed in that interim time.

It is pretty simple. We have large corporations, for the most part, that have their own fire equipment. It is very modern. It is generally unused. They donate it. They are not going to donate it unless this liability provision is removed. Most big States, or at least a lot of big States, have looked at this and have made the decision to go ahead and do that. And it just seems to make sense all over this country, as we try to support our volunteer fire services, that we would give them the best equipment possible. And this simply would allow that to happen.

I would hope that every single Member of the House of Representatives this time would look carefully, if it comes to a roll call, at what is a rather simple amendment and would be in full support of it. And I hope that, as much as I enjoy presenting this amendment, that this is the last time we have to present and it becomes law sooner rather than later so that we can proceed, because even in the last year, we have, unfortunately, lost some opportunities for donation of equipment.

Mr. CONYERS. Mr. Chairman, I strongly oppose this amendment. While I salute the hard work of our volunteer firefighters, it appears to me that this amendment we have before us a very stringent solution in search of an actual problem. Although the amendment is supposed to encourage the donation of firefighter equipment by eliminating civil liability barriers, there have been no reported cases of businesses refusing to donate equipment nor cases of volunteer firefighter companies suing donators. At a minimum, this bill should be reviewed in accordance with regular House order. There have been no hearings or markups in the Judiciary Committee, no opportunity for the members to debate this issue to date.

Companies should not be given blanket immunity to companies for donating fire fighting equipment. While it may be true that most of the equipment is perfectly usable, companies should be prevented from donating obsolete equipment. Certain equipment like protective gear and breathing apparatuses can deteriorate over time and may not be suitable for reuse. If firefighters work to protect and keep citizens safe, should not they have the best protective equipment possible?

This ''so-called'' problem can clearly be solved without congressional action. First, volunteer fire companies could simply sign a contract waiving the liability of the donors for negligence resulting from donating firefighting equipment. This tactic would ensure that the fire companies are informed and have consented to the immunity of the donor. Second, this issue is a matter that can be dealt with by the States. There is nothing Federal about local volunteer fire departments; it is purely a State issue.

With all of the other pertinent issues that are before Congress, I find it problematic that we are entertaining this non-problem. I urge my colleagues to reject this truly anti-firefighter protection amendment.

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

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. WEINER

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 88, noes 331, not voting 14, as follows:

[Roll No. 169]

AYES—88

Abercrombie
Ackerman
Andrews
Barrow
Bean
Bishop (NY)
Blumenauer
Brady (PA)
Capps
Capuano
Cardin
Clay
Cleaver
Conyers
Costello
Crowley
Davis (CA)
Davis (IL)
Delahunt
Doyle
Emanuel
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Gutierrez
Higgins
Hinchey
Holt
Hoyer
Israel
Jackson (IL)
Kilpatrick (MI)
Lantos
Lee
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Miller, George
Moore (KS)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Payne
Pelosi
Rangel
Rothman
Ruppersberger
Rush
Sabo
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Stark
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Waters
Weiner
Woolsey
Wu

NOES—331

Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Evans
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meek (FL)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (WI)
Moran (KS)
Murphy
Murtha
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schwarz (MI)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watt
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Becerra
Berkley
Berman
Hastings (FL)
Honda
Kingston
Larson (CT)
Millender-McDonald
Musgrave
Roybal-Allard
Sanchez, Loretta
Solis
Watson
Waxman

□ 1356

Ms. LINDA T. SÁNCHEZ of California, Mrs. McCARTHY, Ms. WASSERMAN SCHULTZ, Ms. HOOLEY, and Messrs GILCHREST, SALAZAR and ROSS changed their vote from ''aye'' to ''no.''

Mr. HIGGINS and Mr. HOLT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Chairman, during rollcall vote No. 169 on the Weiner amendment to H.R. 1544, I was unavoidably detained.

Had I been present, I would have voted ''aye.''

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

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

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. PUTNAM, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1544) to provide faster and smarter funding for first responders, and other purposes, pursuant to House Resolution 269, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

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

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

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

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

RECORDED VOTE

Mr. COX. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 409, noes 10, not voting 14, as follows:

[Roll No. 170]

AYES—409

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp

Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—10

Allen
Berry
Cubin
Davis (AL)
Herseth
McDermott
Michaud
Moore (WI)
Ross
Sabo

NOT VOTING—14

Becerra
Berkley
Berman
Hastings (FL)
Honda
Kingston
Larson (CT)
Millender-McDonald
Musgrave
Roybal-Allard
Sanchez, Loretta
Solis
Watson
Waxman

□ 1414

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 170 on final passage of H.R. 1544, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Thursday, May 12, 2005, I was unavoidably absent due to a personal emergency. I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows:

Rollcall No. 169: "No." On Agreeing to the Weiner Amendment to H.R. 1544.

Rollcall No. 170: "Yes." On Passage of H.R. 1544.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Thursday, May 12, 2005, to vote on rollcall vote Nos. 169 and 170 due to a family medical emergency.

Had I been present, I would have voted: "No" on rollcall vote No. 169 on an amendment to H.R. 1544 to limit the number of Urban Area Security Initiative grants during any given fiscal year to 50; and "aye" on rollcall vote No. 170 on passage of H.R. 1544—Faster & Smarter Funding for First Responders Act of 2005.

□ 1415

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, MAY 13, 2005, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight May 13, 2005, to file a privileged report making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI all points of order are reserved.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, MAY 13, 2005 TO FILE A PRIVILEGED REPORT ON DEPARTMENT OF INTERIOR APPROPRIATIONS ACT, 2006

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight, May 13, 2005 to file a privileged report, making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1650

Ms. LEE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1650.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the Majority Leader the schedule for the week to come. At this time, I yield to the distinguished Majority Leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business.

We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Tuesday and the balance of the week, the House will convene at 10 a.m. for legislative business. We may consider additional legislation under suspension of the rules, as well as several bills under a rule: The Department of Homeland Security Appropriations Act for Fiscal Year 2006; the Department of the Interior Appropriations Act for Fiscal Year 2006; and H.R. 1817, the Homeland Security Authorization Act for Fiscal Year 2006.

Mr. Speaker, I yield back to the distinguished Minority Whip.

Mr. HOYER. Mr. Speaker, I thank the Majority Leader for that information. With respect, Mr. Leader, to the Homeland Security Authorization bill, can you presently tell us which day of the week will that be considered?

Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. While things could certainly change as we work through what will be a very busy week, we will likely have the two appropriations bills sort of bookending the week, with the Homeland Security authorization bill coming in the middle of those two bookends. So I would expect that the Homeland Security Appropriations bill would start as early as Tuesday morning. Then we would go to the Homeland Security authorization bill, and when it is finished, we would go to the Department of the Interior appropriations bill.

Mr. HOYER. Mr. Speaker, I thank the Majority Leader. Does the gentleman know at this point in time what type of rule, I notice that the gentleman from Texas (Mr. SESSIONS) is on the floor, what type of rule the Homeland Security authorization bill might be considered under?

Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman from Maryland (Mr. HOYER) yielding. I have not been advised as to what kind of rule. I think the gentleman that is sitting here is about to make an announcement in that regard. I would assume that it would be handled like most major bills.

As the gentleman knows, the Homeland Security authorization bill is the first Homeland Security authorization bill that this House has considered, and so there is a lot of room for negotiation.

Mr. HOYER. Reclaiming my time, Mr. Leader, I appreciate that observation. I agree with the gentleman from Texas. In light of the fact it is the first time that we will have considered an authorization bill from this committee and for this department since its formation as a separate piece of legislation, it would, hopefully, be one that would be open to perfection and amendment, if possible. So we will hear from the gentleman from Texas (Mr. SESSIONS) shortly on that.

Prior to Memorial Day, can you tell us, Mr. Leader, what appropriation bills you anticipate coming to the floor prior to that Memorial Day break?

We are going to have, obviously, Homeland Security and Interior next week. Do you know which bills you might be considering?

Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

As the gentleman knows, serving on committee, the committee has a very ambitious schedule, and it hopes to complete all 11 bills coming out of its committee by the Fourth of July recess, meaning all 11 bills out of the House by the Fourth of July recess. So, in addition to managing the two bills on the floor next week, the committee intends to mark up both the Military Quality of Life and the Energy and Water bills. So we would anticipate, if things go well, those two bills being on the floor the following week.

Mr. HOYER. Mr. Speaker, I thank the Leader.

Reclaiming my time. Lastly, Mr. Leader, there has been some discussion about having bipartisan support for the legislation, some of the legislation that is going through this body. We have had bipartisan support for some of those pieces of legislation.

There is a bipartisan bill, the Castle-DeGette bill, on stem cell research. I know it is a controversial piece of legislation, but it does have bipartisan support and broad support I might say.

Can the Leader tell us when the gentleman might contemplate that bill coming to the floor?

Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

There is a good chance that the House will consider changes in the President's research policies between now and the August recess. The form and timing of this debate has yet to be determined. There is still a lot of discussion going on.

I could inform the gentleman that probably the timing for the floor, the best I could tell you is that timing for the floor would be sooner than later.

Mr. HOYER. Mr. Speaker, I appreciate not necessarily the specifics, but at least the assertion that it will be sooner. We believe this is a very important piece of legislation. It is. Obviously, strong views are held on this issue on both sides of the issue. But it is important to an overwhelming majority of Americans, one way or the other, and I would certainly hope, I know both the gentleman from Delaware (Mr. CASTLE) on your side of the aisle, the gentlewoman from Colorado (Ms. DEGETTE) on our side of the aisle, have both been working very hard on this piece of legislation. We would look forward to it coming to the floor as soon as practical, given the discussions that are ongoing. And I appreciate the Leader's observations. I thank the leader for his information.

ADJOURNMENT TO MONDAY, MAY 16, 2006

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

HOUR OF MEETING ON THURSDAY, MAY 19, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, May 18, 2005, it adjourn to meet at 9 a.m. on Thursday, May 19, for the purpose of receiving in this Chamber former Members of Congress.

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

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON THURSDAY, MAY 19, 2005, FOR THE PURPOSE OF RECEIVING FORMER MEMBERS OF CONGRESS

Mr. DELAY. Mr. Speaker, I ask unanimous consent that it may be in order on Thursday, May 19, for the Speaker to declare a recess subject to the call of the chair for the purpose of receiving in this Chamber former Members of Congress.

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

There was no objection.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

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

Mr. SESSIONS. Mr. Speaker, the Rules Committee may meet next week

to grant a rule which would limit the amendment process for floor consideration of H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. The bill was reported by the Committee on Homeland Security on May 3, 2005, and it received sequential referrals to the committees on Energy and Commerce, Government Reform, Judiciary, Science, Transportation and Infrastructure, Ways and Means and Intelligence.

Members should draft their amendments to the text of an amendment in the nature of a substitute that is intended to reflect the work of all the committees of jurisdiction. This amendment in the nature of a substitute will be posted on the Web sites of the Rules and Homeland Security Committees on Friday, May 13, 2005.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H–312 in the Capitol by 10 a.m. on Tuesday, May 17, 2005.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO THE UNITED STATES NAVAL ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C 6968(a), 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 Board of Visitors to the United States Naval Academy:

Mr. CUNNINGHAM of California;

Mr. WICKER of Mississippi.

APPOINTMENT OF MEMBERS TO BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION

The SPEAKER pro tempore. Pursuant to 20 U.S.C. 2004(b), 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 Board of Trustees of the Harry S Truman Scholarship Foundation:

Mr. AKIN of Missouri;

Mr. SKELTON of Missouri.

HONORING KELSEY RYAN

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

Mr. KELLER. Mr. Speaker, I rise today to honor Kelsey Ryan, a 9-year old little girl from Celebration, Florida, my home district. Kelsey is a true hero to her community and her country. We are honored that she is here with us today.

Kelsey possesses a life-threatening allergy to peanuts. She is not alone; 4 percent of our population has some form of life threatening allergy, either to peanuts, shellfish, insects or other items.

Kelsey decided to do something about it and took action. She traveled to Tallahassee, Florida, where she testified before six separate committees of the Florida legislature. She explained that by allowing her and other school children to use this Epipen it would help save the lives of 100,000 different school children in Florida who also suffer from life-threatening allergies.

She was so effective that the Florida House and Florida Senate unanimously passed the Kelsey Ryan Act, and it will be signed into law by the Governor of Florida, Jeb Bush, in a matter of days.

On behalf of the United States Congress, I was pleased today to present Ms. Kelsey Ryan with a Certificate of Special Congressional Recognition, an award we humbly give to true American heroes.

Mr. Speaker, we are proud of Kelsey in Florida. And today we honor the achievements of an amazing 9-year-old lady who has selflessly helped save the lives of up to 100,000 different school children in my home State of Florida. We are proud of her in Congress. We are proud of her in Florida. We are proud of her back in Celebration.

ABUSE OF CONGRESSIONAL POWER

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute.)

Ms. WOOLSEY. Mr. Speaker, it boggles my mind that Republicans continue to criticize Democrats for blocking judicial nominations. Their facts are deceiving. Their facts are inaccurate, and their actions to force through extremist judges are just one example of their abuse of power in the Congressional Chamber.

□ 1430

The fact is that 208 judges have been confirmed and 10 have been turned down because of extremist positions. That represents a 95 percent approval rating. These same Members, by the way, blocked 65 of President Bill Clinton's nominees. These same Senators would like you to believe that the only way to get the judicial process moving is to eliminate the 200-year-old filibuster rule that grants Senators the ability to speak their minds if they feel an action is not right for the country.

The Republican greed for power is eroding our political system. They should remember that a democracy is not a one-sided body of government. It is time for my Republican colleagues to respect that basic notion and end their abuse and their bullying in the Congress.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JINDAL). 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.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the ink has hardly dried on the latest supplemental spending bill for military operations in Iraq, but that has not stopped top officials in the Pentagon from starting preparations for the next supplemental bill.

It was reported yesterday that the Pentagon has begun laying the groundwork for the next supplemental requests which may come as early as this August. The Pentagon will likely request more than $25 billion more, but some in Congress have indicated that they will ask for as much as $50 billion more.

The Pentagon which receives over $400 billion annually from the United States Treasury acts like 25 or 50 billion is a mere drop in the bucket. Likewise, when supplemental requests are doled out in these smaller, ha-ha smaller, $50 billion increments, many Members of Congress and much of the Nation have absolutely no concept of the true cost of the war in Iraq, which at the moment adds up to over $200 billion. But when you think about the financial strain being felt at home like the fact that we are not fully funding the No Child Left Behind Act or that we are not paying for adequate health care for our returning veterans, it does not take long to realize that $50 billion more for Iraq takes a toll on the American people here at home.

Mr. Speaker, why are we funding a war, especially one that was entered into on false pretenses, through repeated supplemental spending bills? This method of funding underscores both a fundamental lack of planning for the war in Iraq, as well as a hostile contempt for the financial strain on the citizens of the United States.

If the President and his administration had a strategy to peacefully resolve this war in Iraq, they would submit to Congress a plan, a plan detailing the further U.S. military operations there. This plan would indicate how long they expect troops to remain in Iraq and at what levels and in what capacity, how much the war will cost, and exactly how they plan to finance this burdensome cost. This plan would define when and how we are planning to bring our troops home.

Anything less than a comprehensive strategy is a slap in the face to all the hard-working American people in this country whose tax dollars are financing this misguided mission. Sadly, I think the real reason the administration has failed to provide such a strategy is because they apparently have no plan to end the war in Iraq. Americans

have a right to know where their money is being spent. For instance, why did the Army recently award Kellogg, Brown & Root, a subsidiary of Halliburton, with $72 million in bonuses for ''the company's excellent performance''?

Perhaps the definition of excellence has changed since I attended school, because in my day excellence meant working hard and achieving positive results, not conning the American people out of millions, even billions, of dollars while failing to secure Iraq.

And why have $9 billion in supplemental funds gone unaccounted for? How does $9 billion just vanish? Given the administration's poor track record for spending American taxpayers' money, why does our Congress continually fail to demand accountability for how the supplemental funds are being spent?

Mr. Speaker, there must be a better way than this, because the current system is broken. That is why I have developed a SMART Security platform for the 21st century. SMART is a Sensible Multi-lateral American Response to Terrorism. SMART will help reinvigorate America's foreign policy by focusing our spending priorities on conflict prevention, international diplomacy, and multi-lateralism.

Instead of Congress's current open check book policy we have for Iraq, SMART Security wisely invests U.S. dollars in development funding. It invests in peacekeeping and reconstruction, adequately funding these important programs because then that will go a long way towards ensuring long-term peace and stability in troubled countries and troubled regions.

If we had invested in SMART Security in the first place, we would not have become embroiled in a war that has cost the lives of more than 1,600 American soldiers and at least 24,000 Iraqi civilians. This shameful war has also permanently injured over 25,000 American soldiers whose lives will be changed forever. We must focus America's efforts on a smarter strategy for our national security instead of continuing our shameful policy of preemptive military combat.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VETOING AMERICA'S TRANSPORTATION FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, yesterday, finally, blatantly, 18½ months after the expiration of the Surface Transportation Act which provides crucial funding for all of the road, bridge, highway mass transit and related work of the Federal Government, spending our gas taxes which are collected day in and day out and being underspent by this administration, the Senate acted to increase funding.

Strangely, this is the one bill, the only place that George Bush in over 5 years in office has said he is going to veto a bill if it spends more money. Now, he will not do that for agriculture subsidies to pay big corporate farms not to pay things. He wanted to cut their subsidies, but the Republicans have refused to do it, and he is not threatening to veto that bill.

He is not threatening to veto bills that are doing wasteful things like the Star Wars Project in Alaska that does not work, has not met a single parameter of its goal. He cannot threaten vetoes there. But when it is spending our gas tax money, this is the only bill where we are in the borrowing money. We are borrowing $1.3 million a minute to run the Federal Government under the Bush budget, but we do not have to borrow money to have a robust highway bill. We just need to spend the taxes we are all paying every time we tank up our car or truck.

This is money that will put people to work. This is money that will maintain and improve our crumbling infrastructure. It will help mitigate congestion, people sitting in traffic, idling, wasting gas, wasting their time. It could better fund mass transit, alternate transportation, all these things; but somehow the President has drawn the line in the sand.

He said last year, not a penny over $256 billion. He wants to underspend the trust fund so he can borrow that money to pay for tax cuts for rich people. Plain and simple. That is what he wants to do with our gas tax money.

We pay money at the pump to improve our roads, bridges, and highways. We have to pay it right there at the pump. He wants to underspend that trust fund, and then he wants to take and divert that money over here to give rich people tax cuts. Now, is that a better way to stimulate the economy of the United States, to improve the business climate, to help the traveling public?

I do not think so. It might help them pay for their corporate jets, but it is not going to help the rest of us who are down there mired in traffic.

So the Senate voted yesterday 76 to 22 to increase funding substantially above the levels the President says he will veto. Well, an override of a veto is 66 votes in the United States Senate. Maybe this will send a message that we have been trying to send to the White House for 2 years.

There is a huge bipartisan coalition, Republican and Democrat in the House and the Senate, who want to invest in our roads, bridges, highways, mass transit, alternative transportation, put Americans to work, help Americans get to work, and help improve the efficiency of our business. Hopefully, they will change their tone down at the White House and stop threatening to veto needed investment.

The President's own Department of Transportation, the people he politically appointed and controls, says this bill should be $376 billion. And the President says not a penny over 256. Now he has come up a little bit to the House level of 284, but that is not adequate to meet the needs of the system. And the Senate wants to spend more of our gas tax dollars on what they were collected for, projects to rebuild and improve the efficiency of the Nation's infrastructure.

So I take this as a very positive move. Hopefully, the Republican leadership can move with dispatch to have a conference committee and get a bill done by May 31. That is when the fifth extension of the long-expired highway bill expires. Because if we do not, hundreds of projects across America will not get built this summer, those jobs will not be created, those bottlenecks will not be solved, those bridges will not be repaired, the traveling public will be impaired.

The White House will be happy with that because then they get to take more money, divert it from the gas tax, and spend it on more tax cuts for rich people. But I do not think the rest of America will be amused by that. So I am hoping the American public will demand that Congress act quickly to resolve the differences between the House and the Senate and get a bill now 18 months overdue to the President's desk. And if he chooses to veto it, then pressure the Congress to override that ill-intentioned veto.

Let him veto something wasteful. Let him veto something that we are borrowing money to pay for, but do not veto a paid-for highway bill with vital investment in America's transportation future.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

(Ms. ROS-LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

(Mr. SCHIFF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from 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.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. PRICE) is recognized for 5 minutes.

(Mr. PRICE of Georgia addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CONGRATULATING THE MATH AND SCIENCE ACADEMY OF SOUTH TEXAS INDEPENDENT SCHOOL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise to urge my colleagues to join me today in congratulating the staff, the administration, students and families of the Math and Science Academy of South Texas Independent School District in my hometown of Mercedes, Texas, on being named one of Newsweek magazine's Best High Schools in America for 2005.

Our academy ranked 40th out of 100 U.S. high schools. A quality, comprehensive and challenging education is the most valuable gift we can give to our children. For the second time in 2 years, the Math and Science Academy of South Texas has received this prestigious recognition, and it solidifies the school's standing as a model of excellence and as an exemplary institution. The teachers and administrators are truly committed to educating and encouraging our future leaders.

As the country continues to move forward into the 21st century, the need for mathematicians, scientists, engineers, and the leaders of tomorrow continues to be of the utmost importance.

□ 1445

A high school diploma is the first step to becoming a successful contributor to our society.

The program of study at the academy ensures that students succeed and, more importantly, lays the foundation for students to learn the fundamentals that will lead to successful lives and careers. It is truly an exceptional institution.

Last fall, I joined the South Texas ISD community to celebrate the district's 40th anniversary. I would like to congratulate superintendent Marla Guerra, as well as the members of the school board of trustees, the faculty, the students, parents and alumni on 40 years of achievement. This school district demonstrates a regional commitment to excellence. The recognition that the Math and Science Academy has received is just one of many accolades earned by the South Texas ISD school district.

My involvement in establishing the magnet high school system for the South Texas ISD is one of my proudest achievements. Over 20 years ago, as a member of the Texas State Board of Education, I led a delegation from south Texas to Houston to visit that city's highly regarded magnet schools. We knew that we wanted that caliber of opportunity for our students. However, we were told that such a program could not work in south Texas. We were told that we did not have the financial resources and that we could not find the students, but we did not believe the nay-sayers. We knew it could be done.

Today, the Math and Science Academy, with a student population that is almost 80 percent Hispanic and over 50 percent eligible for free or reduced price lunch, is among the most elite high schools in the Nation. Every day it brings us closer to realizing the vast potential of our community. It shows us what is possible when we invest in our children and demand the very best.

I ask all my colleagues to join me in congratulating the Math and Science Academy of south Texas on a job well done.

The SPEAKER pro tempore (Mr. JINDAL). Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE SOCIAL INSECURITY SYSTEM

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, yesterday in the interest of protecting Members of Congress, journalists and the general public, officers of the Capitol Police advised everyone to run for their lives, and we did.

Today, I wish that a Capitol Police officer would have been on hand at the Committee on Ways and Means hearing to shout the same warning.

Run for your lives is the very best nonpartisan advice that anyone can give the American people over the President's plan to create a private insecurity social system.

The President wants the American people to cut Social Security benefits. His proposal would devastate the program, break the promise and destroy the trust made between the government and the American people.

The President wants the American people to accept his word that privatizing Social Security is in the best interests of Main Street and not Wall Street.

The President, amid much bravado, said his plan is on the table and his plan stays on the table, take it or take it. Since the President will not take private insecurity off the table, let us look at what else the President put on the table with his plan.

It is the only guaranteed outcome of the President's plan: senior citizens retiring into poverty. We need only look back in history and revisit the dark and stark reality of our own past.

Americans by the thousands retired into poverty before Social Security was created by President Franklin Roosevelt. They retired into poverty because there was no way to protect them. There was no security, and that is exactly what the President wants again.

The President says he does not read newspapers. How about American history? Can someone in the White House please get him an American history book?

It did not work. He ought to know that. Americans who have worked a lifetime were forced to live in poverty because there was no Social Security. Millions of seniors did not have the money for food, clothing or shelter.

You want to revisit America in 1932? My mother still is alive, thank God, and she would be the first to tell you that 1932 was not good. It was economically and humanitarianly a disaster for America. Millions could not afford to eat. Millions had no home to call their own. Americans did not have a lifeline, much less a safety net. It was a dark and horrifying period of American history.

Why in the world does the President continue ignoring history? He proposes a plan; no, the President demands a private insecurity social system. He says he will listen to any idea as long as it is his.

So, today, the President's water is carried by the distinguished but misinformed chairman of the Committee on Ways and Means. I said it before and I say it again: The President's plan for a private insecurity social system is dead as disco. Nobody goes to discos anymore. It does not work. It does not even have those fancy twirling disco lights on the dance floor. The President's plan does not offer real benefits. It offers real cuts.

The President's plan reflects America in 1932, a place with little security and a lot of greed, a place at a time when Americans suffered and lost hope until a great leader renewed a trust with the American people.

A President, in the worst of times, created Social Security to provide every retired American with economic security, guaranteed, something this President wants to destroy.

President Roosevelt created a program that is not Republican or Democrat. It is not east or west. It is not north or south. He envisioned the Nation strong because it defended the weak, stalwart because it valued its people, mighty because it was humble enough to care for the sick and the aged. No one was left behind by President Roosevelt.

This President will leave tens of millions behind in a risky scheme that rewards the greed of Wall Street while it destroys the values of Main Street.

Americans will not be better off with the President's private insecurity social system. Americans will be as vulnerable again as they were at the darkest economic moment in our history. It will be back in the arms of Wall Street.

The President offers no plan and no choice. The President offers only a stark reality: Slash the benefits right now, and he put it right out there a couple of days ago in his news conference; and also cut your bond with the American people; cut the ties that bind us together; destroy the trust and certainty that senior citizens will not retire into poverty because we will not let them. They cannot, if Mr. Bush has his way.

There is only one course open to the Congress and the American people. If the President will not remove the private insecurity social system from the table, then the American people should remove the table. Throw it away before somebody gets hurt. Remove it from America's house because it does not belong there.

We are a Nation of people who want our children and grandchildren to have an opportunity for more than we had. We will be the first generation to expect our children to have less because we planned it that way.

The President wants to create a Nation of people wanting for the basics of food, clothing and shelter. We lived through that once. We do not need to live through it again.

FDR was right in 1935, and he is right in 2005.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

(Mr. DENT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING THE LIFE AND ACCOMPLISHMENTS OF THE LATE PETER RODINO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I take this time to honor and commemorate the life and the accomplishments of our former colleague Congressman Peter Rodino, elected to the House of Representatives in 1949, who served his district in New Jersey for 40 years with great integrity, humility, fairness, dignity and honor.

Originally known for making Columbus Day a national holiday, Chairman Peter Rodino spent his whole life fighting for people's rights, and I recall personally his strong commitment to human rights, his unwavering support for the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Voting Rights Extension Act of 1982. He introduced many of these bills and shepherded them through Congress as chairman of the Judiciary Committee of the House of Representatives.

He was also responsible for the enaction of the Hart-Scott-Rodino Act which reviewed determinations of mergers of huge corporations in America, and he was instrumental in reforming immigration laws in both the Simpson-Rodino legislation and the Kennedy-Rodino legislation, both of which improved mechanisms for people in the country illegally to legalize their immigration status.

In 1973, Mr. Rodino replaced the legendary Emanuel Celler as the chairman of the Committee on the Judiciary. I was then a member of the committee, and he impressed all of us with his determination to do the right thing and his considerate treatment of all committee members. He displayed this common touch in his ability to relate to citizens of every background and from all walks of life.

Of course, Peter Rodino has earned his record in history for his role as chairman of the House Committee on the Judiciary, presiding over the Watergate hearings which led to the impeachment of then President Richard Millhouse Nixon. History has recorded the debt all Americans owe him for presiding firmly, responsibly and fairly over these hearings and subsequent proceedings.

Many people were very alarmed at what the impeachment of a President would mean, and they wondered aloud in our public media whether this country could survive an impeachment. He handled this very sensitive matter, and it turned Chairman Peter Rodino into a national hero. It was his calm steering of the committee to a final conclusion that ultimately preserved, without any disruption, the constitutional system of the United States, which has been emulated throughout the world.

After he retired from Congress in 1990, he returned to New Jersey as a professor of law at Seton Hall Law School in Newark, New Jersey, and he was active up until even last year. When I visited him there, he was still going strong.

I would like to close by announcing that his memorial service will be held in Newark on this coming Monday, and we want to invite as many of his friends in and out of the Congress who remember his great work to join us at 11 a.m. at the Catholic church of which he was closely connected for his memorial service.

□ 1500

VOLUNTARY OSHA EFFORTS

The SPEAKER pro tempore (Mr. JINDAL). Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, it is interesting that today we heard some very important testimony on workplace safety during a hearing we had in the Subcommittee on Workplace Protections. We wanted to hear from safety advocates in the small business community on how well voluntary employer compliance programs are working to improve workplace safety while at the same time protecting jobs and small businesses from unnecessary red tape and lawsuits.

I have heard employers say many times, and know from my own firsthand knowledge, that OSHA regulations are simply too complex and too difficult to understand. It is a red-tape nightmare, Mr. Speaker. That is a good description for the piles of OSHA rules, regulations, guidance documents, and interpretive letters that employers must dig through to try to determine the right thing to do in the business place to come into compliance. Mr. Speaker, I do not think they ought to be spending their time bringing their workplace into compliance with OSHA red tape. They ought to, instead, be spending their time making their workplace safer.

Small businesses want to comply with our Nation's health and safety laws for many reasons, one of which is it simply pays for them to do so. From the testimony we heard today, it is evident that OSHA's past ''gotcha'' enforcement scheme of fines and lawsuits is actually leading to a less safe workplace, as small business owners are forced to hunker down to protect themselves instead of seeking out help to improving their workplace safety.

Fortunately, OSHA has already recognized the need for compliance assistance, and Secretary Chao is to be commended for her vision and leadership in this regard. Now we are actually starting to see the results of her efforts over the last 5 years, and those results are positive and encouraging.

The Government Accountability Office, fondly known as GAO, has found that the companies involved in voluntary OSHA compliance programs have contributed to the safest workforce in our Nation's modern history. GAO asked for more data from Congress on how well these programs are working, and we need to provide that just as soon as possible.

But one overall fact we already know is that encouraging OSHA to help businesses instead of prosecuting them is having far better results in creating safer workplaces, and this is especially true with small businesses. We can continue this process with some powerful force multipliers with OSHA, through voluntary employer efforts to work

with private consultants and industrial safety specialists to foster a safer workplace.

OSHA will never have the resources to visit every American work site to ensure compliance, but this exciting new compliance tool can ensure that workplaces that would never see a visit from an OSHA inspector will have access to world-class safety specialists. At the same time, our business owners should be encouraged to invite OSHA to their work site and engage the agency in compliance assistance without fear of reprisal from Federal bureaucrats. In the process, we can continue to maintain the safest workplace in the world where our businesses can continue to compete in a global economy.

There are still the last holdouts from the failed ways of the past who would like to see Federal bureaucrats spread out across the country to harass and punish people who are trying to make a living. In order to do that, we would have to have 108,000 new inspectors at OSHA, and even then they could only visit our businesses every 2 years. That will never happen, and it is not going to work.

Mr. Speaker, we are on the verge of winning a great victory for workplace safety by expanding voluntary compliance programs. Let us resolve to defeat the naysayers. If we succeed, we can create a 21st-century OSHA that will be far more effective in creating a safe workplace for every American worker, no matter how small or remote their place of business. We can continue teaching Federal bureaucrats a lesson in manners when dealing with their fellow citizens, and, in fact, their employers.

BOLTON FOR U.N. AMBASSADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise today in support of John Bolton's nomination as our ambassador to the United Nations.

Although I am not able to vote on his nomination, since I am not a Member of the United States Senate, I encourage my colleagues in the Senate to support his nomination. I am pleased that the Senate Committee on Foreign Relations has agreed today to put his nomination before the full Senate for an up-or-down vote.

Mr. Speaker, the United Nations is in serious need of reform. From enforcing the resolutions the United Nations and its member countries have adopted over the years, to its misuse of funds for many programs across the world, the U.N. is in serious need of reform. Mr. Speaker, the United Nations is rife with fraud, mismanagement, and abuse in many areas of its operations. From the U.N. Oil-for-Food program, to its lack of action with respect to the genocide in Darfur, Sudan, to the horrendous human rights abuses during the U.N. mission in the Congo, the U.N. is in serious need of reform.

I think we can all agree that the most urgent threat to international peace and security today is terrorism, yet the U.N. cannot even agree upon a definition for terrorism. Perhaps this is because its membership consists of several terror-sponsoring states. The U.N. counts the world's leading human rights violators and repressive governments among its membership, and even taps many of them to be in leadership positions on its subcommittees. I find this completely outrageous and dangerously ironic.

Last time I checked, the U.N. charter states that it is supposed to ''maintain international peace and security; to promote equal rights and self-determination of peoples without distinction as to race, sex, language, or religion; to help solve problems of an economic, social, cultural, or humanitarian character; to encourage social progress and better standards of life in larger freedom.''

The U.N. needs reform and Mr. Bolton is the right man to voice our encouragement for these reforms. Mr. Bolton has a proven track record in working with the United Nations in the past. In conjunction with efforts by Secretary James Baker to resolve conflict in the Western Sahara, he actually worked for the U.N. pro bono between 1997 and 2000. While serving as Assistant Secretary of State for International Organizations from 1989 to 1993, he worked on other key diplomatic initiatives and U.N. reforms, including the repayment of arrearages in U.N. assessments that had been created during the 1980s. He has worked tirelessly in various capacities to help combat the spread of dangerous weapons of mass destruction through his lengthy and distinguished career.

Mr. Bolton has served this Nation well. There is no doubt in my mind that he will serve our great Nation with distinction and will be a strong voice for reform at a time when the United Nations desperately needs it. I applaud his nomination and encourage his approval by the Senate to serve our great Nation. Let Mr. Bolton be our voice to the U.N. that these reforms must be made.

THE VOICE OF GEORGIA'S FOURTH CONGRESSIONAL DISTRICT IS BACK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Georgia (Ms. MCKINNEY) is recognized for 60 minutes as the designee of the minority leader.

Ms. MCKINNEY. Mr. Speaker, it has been a long time since I have taken the well of the House of Representatives. Today, the people of Georgia's 4th Congressional District are happy that I am back. I have received notes, calls, letters and visits from people all over America who are glad to see me back in Congress. They are glad to have a voice.

That voice. The voice. The voice back. The voice who spoke out and asked the questions about waste and abuse at the Pentagon. The fact that our Secretary of Defense would come to the House Committee on Armed Services, on which I served, and admit the loss of $2.3 trillion and say in the same breath that our country can afford it; and the massive amounts of money that we send to the Pentagon today without even questioning how it has been spent; that we can afford it; or that we are getting the appropriate bang for our taxpayer bucks.

I questioned the no-bid sweetheart deals with favored insider corporations, like the Carlisle Group and Halliburton. I did not understand how our sitting Vice President could still be drawing a paycheck from the Halliburton Company and, at the same time, serve the interests of the American people.

I asked why weapon systems, unwanted by the Pentagon, still found their way into the President's defense request. I wondered why our soldiers were being required to take anthrax and smallpox vaccines that had not even been cleared by the FDA. I was amazed to learn that the administrator of the vaccines program was DynePort, a subsidiary of a company whose employees had been found guilty of trafficking in young women, raping young girls, and holding women of all ages as sex slaves.

I asked questions about how the United States could entirely change its military doctrine to one of preemption and there not be a discussion about the ramifications of that with the American people.

All that happened was that the Secretary of Defense came before the Committee on Armed Services and said that the new U.S. posture was going to be to seize foreign capitals and occupy them. Of course, this was long before anyone in the public was aware that we would soon be sending our young men and women off to a war to do just that. I was appalled at the acceptance without question of what was clearly a deviation from then current policy, but what was seemingly also more than just a theoretical forward projection of our military might. What Rumsfeld enunciated back then was exactly what we are doing now.

□ 1515

I publicly questioned how such a fundamental shift could be sanctioned without the least bit of controversy. I questioned why private militaries, some would say mercenary outfits while others would say U.S. intelligence front companies, like DynCorp were being given contracts that seems to me to allow escape of congressional oversight. DynCorp was spraying chemicals on plants and people in Colombia and had a presence in Peru, Qatar, Haiti, Afghanistan and now

Iraq. I wondered what would happen when Americans employed by these companies are hurt or killed or are caught carrying out a mission not approved by the Congress or was unknown by the Congress. I guess you could say I just had too many questions. And, sadly, I did not like the answers I was finding as I did my research.

Over 3 years ago, I asked questions about the appearance of war profiteering just after our President declared the war on terror, and I called for an investigation into the tragic events of September 11. Now, I am pleased that important legislation to look into war profiteering has been introduced and voted on in this House. And today, we voted on legislation suggested by the 9/11 Commission which was convened to investigate the tragic events of September 11 just as I had called for. Everyone in this body and most who are watching know what happened to me for asking these questions and demanding accountability. I was kicked out of Congress, and for 2 years, I had the opportunity to travel around our country and to other countries and tell my story to people who were hungry to know more about America's war on terror and about September 11. During those 2 years, I met some wonderful patriots who want only the best for our country and its people and who wish for peace with justice for other people around the world. And that is why we have been inundated with letters and calls and e-mails and faxes and visits from people all over the country welcoming me back to Congress. And so I am glad to be here and rejoin my colleagues in the competition of ideas on how we can make our country even better.

This afternoon I would like to start by recounting an experience that happened to me this morning. This morning, I was doing my customary walk to work to enjoy these wonderful Washington, D.C., mornings. And about midway through my walk, I heard a little boy yelling at me. He was asking me to stop the bus for him as he was running to catch the bus for school. Usually I am loaded down with lots of bags, but this morning, thank goodness, I did not have a heavy load. And so I kicked into high gear, and I ran so I could catch that bus for that little boy. I caught the tail end of the bus, and I banged on the back of the bus to get it to stop and let the little boy on, but the bus pulled off without acknowledging any of my bangs. I turned to the little boy, and I told him, ''Don't give up. Let's run, we'll catch that bus together.'' So we both got into high gear, and we ran and we ran and we ran and we ran. And soon I saw that the bus had stopped. So I told the little boy, ''Don't give up, we can make it. We've just got to keep on running.'' The little boy did not give up. He kept running. The little boy's determination to make it to that bus was evident. The little boy wanted to get to school. While the bus was stopped at the red light, we managed to catch up. The fact that we did not give up gave us the opportunity to catch the bus. I thought there was a good lesson in that for the little boy.

And then I started to bang on the bus. I banged on the bus from the rear all the way up to the front passenger door. I pointed to the little boy who was just a few steps behind me, and I yelled, ''Please open the door. Let this little boy onto the bus.'' The driver looked at me. She looked at the little boy. She shook her head, and she drove off.

The little boy was crushed. Tears welled in his eyes. He wanted to get to school. That bus represented the door of opportunity. He had done all he could to reach that door. He ran. He told himself he could make it. He made it. That, in and of itself, was a victory, but it still was not enough to get the little boy on the bus and on his way to school. The door of opportunity for that little boy was closed when the bus pulled off. It left that little boy behind.

And so what I would like to address today are the closed doors of opportunity that leave too many Americans behind. That little boy's name was Martin. That is important, because behind the statistics that we tout on this floor every day over and over again are real people whose lives are affected by what we do and the decisions we make.

Mr. Speaker, the policies of this Congress and this administration and the decisions of the court are leaving too many Americans behind. Our goal ought to be to open the doors of opportunity for all Americans, so that no one is left behind. But, sadly, the statistics tell us conclusively that the doors of opportunity are as closed for certain Americans as they were for little Martin this morning.

Today, I would like to explore some of those statistics and suggest that we fail to do our jobs if we do not enact policies that turn these numbers around. I will be quoting from Hull House, the New York Times, United for a Fair Economy, and the National Urban League. Hull House is an organization in Chicago. They did a study on the disparities between blacks and whites living in Chicago, and what they found was that in economic and social indices, it would take 200 years for those gaps in the quality of life enjoyed by black Chicagoans and white Chicagoans to close. Here is what they said: Fourteen years ago, a report was released examining human relations in Chicago that told us that racism was alive and well. Over the years, we have seen racial disparity impacted by a growing economic gap that has left many behind. The information in this report will help us create more effective, sustainable solutions by allowing us to deal with systemic barriers. It is critical that we establish a floor under which no Chicagoan will fall.

Where are these gaps in Chicago? They are in income, wealth and employment, education, health, housing, welfare and health of children, crime, law enforcement and justice and transportation. The gap between high- and low-income households in the region increased 11 percent between 1999 and 2000, the first rise in 7 years.

Under health, in Illinois, Latinos had the highest rate of non-elderly uninsured, 29 percent; followed by blacks at 24 percent; Asian, Pacific Islander/Native Americans at 17 percent. For the white population, the rate is 10 percent. For crime, law enforcement and justice, African-Americans are less likely to use drugs than whites or Latinos. Let me repeat that: African-Americans are less likely to use drugs than whites or Latinos. There is, however, a gap between the number of African-Americans who are convicted of drug possession or drug delivery and sentenced to prison and the number of whites and Latinos who are convicted of the same crime who get probation.

Another study was conducted by the New York Times. In that survey, they found that nearly 50 percent of all African-American men living in New York City were unemployed. Nearly 50 percent of African-American men between the ages of 16 and 64 were unemployed, a crisis, an emergency. African-American unemployment remains high. It is significantly higher than the national average. The nonpartisan Congressional Budget Office recently reported African-Americans have lost up to 88 percent of their earning potential since President Bush assumed office in January 2001. I think I need to repeat that one: The nonpartisan Congressional Budget Office recently reported African-Americans have lost up to 88 percent of their earning potential since President Bush assumed office in January 2001.

Another study: Blacks lose better jobs faster as middle-class work drops. Unemployment among blacks is rising at a faster pace than at any time since the mid-1970s, and jobs lost are mostly in manufacturing where pay for blacks has historically been higher than in any other fields. Nearly 2.6 million jobs have disappeared in the past 28 months, nearly 90 percent in manufacturing. Jobless blacks are continuing to look for work, but the types of jobs lost have diminished their standing in the middle class.

I have a report which is the status of health in DeKalb County, which is in my district of the Fourth Congressional District. Now, folks in the Fourth Congressional District like to tout that our district of African-American communities is the first or second most affluent African-American community in the entire United States. Yet that affluent African-American community, first or second in the United States, has a result thus in infant mortality: In 2001, Georgia had the ninth highest infant mortality rate in the United States with a rate of 8.6 deaths per 1,000 live births. Infant mortality rates in DeKalb County have been increasing slightly from 9.9 deaths

per 1,000 live births in 1994 to 10.5 in 2002. From 1994 to 2002, there was an average of 12 black infant deaths per 1,000 live births and 4.7 white infant deaths per 1,000 live births. That is the statistic for the first or second most affluent African-American community in the country.

Let us look at some information that has been provided to us by United for a Fair Economy.

□ 1530

United for a Fair Economy produces a report every year called the ''State of the Dream Report.'' In their 2004 ''State of the Dream Report,'' they discuss racial disparities in poverty. The black poverty rate was three times greater than the white poverty rate in 2002. At the slow rate that the black/white poverty gap has been narrowing since 1968, it will take 150 years to close the gap.

Let us look at imprisonment. They start out with a quote from Dr. King. He says: ''So I must return to the valley, a valley filled with millions of people who, because of economic deprivation and social isolation, have lost hope and seen life as a long and desolate corridor with no exit sign. I must return to the valley all over the South and in the big cities of the North, a valley filled with millions of our white and Negro brothers who are smoldering in an airtight cage of poverty in the midst of an affluent society.''

African Americans on imprisonment are about six times as likely as whites to have been imprisoned at some point in their lives. This gap between black and white men is growing. One out of three black males born in 2001 will be imprisoned at some point in their lifetime if current trends continue. That is up from one out of 11 in 1974.

By comparison, 5.9 percent of white males born in 2001, 5.6 percent of black females, and nine-tenths of 1 percent of white females have a lifetime chance of imprisonment.

What about child poverty? Almost a third of black children live in poverty, 32.1 percent in 2002. The child poverty gap would take 210 years to disappear, not reaching parity until 2212.

Income, for every dollar of white income, African Americans had 55 cents in 1968. That is the year Dr. King was murdered. In 2001 African Americans had 57 cents for every dollar of white income. It has taken more than 3 decades for blacks to close the gap by two cents. At this pace it would take 581 years for blacks to gain the other 43 cents, which would bring them to parity with white per-capita income.

And let us look at housing. The homeownership gap has barely budged since 1970. In 2002 almost three quarters of white Americans owned their own home, compared with fewer than half of African Americans. If the homeownership gap continues to close at this rate, it would take 1,664 years, or approximately 55 generations, before the gap is completely closed.

I know that I am not willing to wait 581 years. I am not willing to wait 1,664 years, and I think the American people ought not be willing to tolerate these kinds of inequalities.

The National Urban League produces an annual report called the ''State of Black America,'' and they have just recently produced the 2005 edition of the ''State of Black America.'' Their headline: ''Even as U.S. Economy Gets Better, Jobs and Wealth Gap Gets Larger on the 'Equality Index.' '' They say to us: ''Equality between blacks and whites in urban America is not improving, and changes in national policies and priorities must be made to help, according to a report released by the National Urban League, entitled 'The State of Black America, 2005, Prescriptions for Change.' ''

The overall equality index shows that black status remains at 73 percent, but the numbers inside the index tell a troubling story in terms of unemployment, income, and wealth. Marc Morial, the President and CEO of the National Urban League, says: ''Our Nation must wake up. The growing wealth gap in this country is not just leaving behind Black America. It's leaving behind the middle class, urban America, rural America, and Hispanic America too. When one community in America suffers, our entire economy suffers. That is why we are recommending specific changes in our national priorities and policies.''

In economics the National Urban League finds that this is still the largest divide. Black economic status measures 57 percent of white counterparts, an equality gap 20 percent wider than any other category. Black unemployment remains stagnant at 10.8 percent while white unemployment dropped to 4.7 percent, making black unemployment more than twice that of whites.

Under health, black health status is 76 percent of whites. Under education black education status is 77 percent of whites. Under social justice, when measuring sentence enforcement and victimization, black versus white equality under law is 68 percent of whites, 5 percent less than 2004, the worst decline overall. We went backwards on the measure for social justice. Blacks are three times more likely to become prisoners once arrested and a black person's average jail sentence is 6 months longer than a white's for the same crime.

What can be done? The National Urban League offers us some specific recommendations, some of which I will read here. First on their list of recommendations is the extension of the Voting Rights Act, which expires in 2007. Now, a whole lot of American people do not know, even our President did not know, that the important enforcement provisions of the Voting Rights Act expire in 2007.

How can it be, how can it be, that the Voting Rights Act enforcement provisions would ever expire after the pain and the suffering that brought the Voting Rights Act to signature in 1965, after the American people had the opportunity to see Bloody Sunday when African Americans in Alabama were trying to cross the Edmund Pettus Bridge just so that they could get the right to vote? How could any provision of the Voting Rights Act ever expire?

The National Urban League also recommends that we raise the minimum wage, and they suggest that we close the homeownership gap; 1,664 years is intolerable. And as the President touts homeownership and how homeownership is an integral part of his ownership society that he wants to create, 1,664 years to close that gap is intolerable. Expanding job training, strengthening the Community Development Block Grant program, and to double the size of the New Markets Tax Credit program, these are just some of the recommendations that are put forward by the National Urban League.

In the United Kingdom, it is interesting to note that a psychiatrist was able to publish in the ''British Medical Journal'' that racism is harmful to one's health, is harmful to one's mental health; racism is harmful to health. He notes that a group of Harvard University researchers documented that a mere 1 percent increase in incidences of racial disrespect, the kind of stuff like following black people in a store, for which there have been many lawsuits in stores; or having African Americans go to restaurants and not being served, for which there have been many lawsuits; or for discrimination at the workplace in big corporations that get tax breaks here, for which many lawsuits have been filed, the result of a mere 1 percent increase of racial disrespect translates to an increase in 350 deaths per 100,000 African Americans. So not only is racism harmful to one's mental health; it is harmful to the fabric of our country. It is harmful to the very lives of the people who are impacted by it.

This is now the budget season in the United States Congress. We are deliberating on the budget, which are the priorities of our country; and pretty soon we will be receiving reports from the Committee on Appropriations on how those priorities are going to be translated into real dollars for the American people. One could say that the budget is the most important piece of legislation passed by any legislative body and certainly is very important because it sets the policies and priorities for our country.

The very definition of politics is who gets what. The authoritative allocation of values in a society, the definition of politics: that is the budget process, the appropriations process. Who gets what, whose problems get solved. We have the opportunity in this Congress to solve these problems. We have a responsibility in this Congress to solve these problems, to make this country better for all of our people so that the bus of opportunity does not pull off

when we are standing there trying to get on, so that the doors of opportunity are open for all Americans.

And I am proud to say that under the leadership of the gentleman from North Carolina (Mr. WATT) that the members of the Congressional Black Caucus have decided to tackle these disparities, these intolerable disparities.

One of the things, however, that we have a responsibility to do is to make sure that the American people understand that these inequalities, these inequities, these gaps, these disparities, that they exist.

I would like to add a few comments before I begin to wrap up. These comments are about the United for a Fair Economy 2005 report that takes into consideration the President's proposals in the budget.

□ 1545

United for a Fair Economy says that while, at first, President Bush's ownership society goals may appear to be consistent with Dr. Martin Luther King's dream of economic opportunity for all races, during the first Bush administration, the United States actually moved farther away from Dr. King's vision. The employment and income picture has gotten worse for people of color since 2000, eroding the progress that was made during the 1990s.

We all know that not only did the Clinton years provide prosperity for all Americans, all boats were lifted up, but those boats within the African-American community and other communities of color were lifted up.

In 2000, the African-American unemployment rate reached an historic low: an historic low. Latino and Hispanic unemployment rates also dropped, but have risen again in the last 4 years. About half of the progress in the median income of people of color from 1996 to 2000 was wiped out in the first 3 years of the Bush administration. After slowly increasing from 55 percent of white income to 65 percent in 2000, black median income fell to 62 percent. For the first time in 15 years, the average Latino household now has an income that is less than two-thirds that of the average white household. So not only are blacks falling back, Latinos are falling back as well.

Throughout the 1990s, poverty rates fell across-the-board. All boats were being lifted up in the 1990s. But since 2000, more than one-third of that progress in reducing poverty among African-American families has been erased; 300,000 African-American families fell below the poverty line from 2000 to 2003.

What about private retirement income and inheritances? Well, they remain scarce among people of color. We have heard a lot of talk about Social Security and privatizing Social Security, and the gentleman from Washington (Mr. MCDERMOTT) was here earlier, and he talked about insecurity, social insecurity.

African-Americans have less in private pensions and retirement accounts, if you are unemployed you have got to have less, and so depend more heavily on Social Security. They would be more affected than whites by any privatization plan that made benefits uncertain.

And, of course, we talked about home ownership; United for a Fair Economy revisits the issue of home ownership in their 2005 report. Then they add that business owners of color, who are largely small business owners, received only minor tax breaks from the four Bush tax cuts. Most tax breaks for businesses and investors have landed with those who are wealthy and white.

Now, we understand what the President told us in the movie Fahrenheit 911. He told us that his base were the haves and the have-mores. So, accordingly, the tax cuts have provided money for the haves and the have-mores, and that is borne out in these statistics.

Now, what do we do about this? We have to address these issues in public policy. It is public policy that can turn these numbers around and make better the lives of all of the little Martins out there who did their best and still found that the door of opportunity was closed for them, to turn that around and make opportunity available for all of them.

Public policy requires, though, a consensus. It requires an American consensus. So we fought the Civil War, and after the Civil War, the Congress passed a Civil Rights Act. So 1964 was not the first time that we had a Civil Rights Act passed, because there was a consensus that something needed to be done to help all Americans.

But how can we arrive at a consensus when the American people are not informed of the facts? Well, you certainly cannot get it on the WB or UPN. You cannot even get it on BET or CNN a lot of the time. But we are told by a Harvard University-Kaiser Family Foundation study that misperceptions cloud whites' views of blacks. You cannot arrive at an answer if you do not know the facts.

Misperceptions cloud whites' views of blacks: Whether out of hostility, indifference or simple lack of knowledge, large numbers of white Americans incorrectly believe that blacks are as well off as whites in terms of their jobs, incomes, schooling and health care, according to a national survey by the Washington Post, the Henry J. Kaiser Family Foundation and Harvard University.

Depending on the question, the poll found that 40 percent to 60 percent of all whites say that the average black American is faring about as well and perhaps even better than the average white in these areas. These misperceptions have consequences, the survey suggests. Among whites, the pervasiveness of incorrect views seems to explain at least in part white resistance to even the least intrusive types of affirmative action, and more broadly, these mistaken beliefs represent formidable obstacles to any government efforts to equalize the social and economic standing of the races.

This is the State of the Dream 2005 report, issued by United for a Fair Economy, and in its introduction, it quotes President Bush: ''The generation of wealth should not be limited to a few in our society. It ought to be an opportunity for everybody. There is nothing better than providing the incentive to say this is my asset base, I own it, I will live on it in retirement, and I will pass it on to somebody in my own family.''

Dr. Martin Luther King had a response for that, even though dead. Dr. King said, ''The majority of white Americans consider themselves sincerely committed to justice for the Negro. They believe that American society is essentially hospitable to fair play and to steady growth toward a middle-class utopia embodying racial harmony. But unfortunately, this is a fantasy of self-deception and comfortable vanity.''

I would hope that all of the reams of paper that have been produced recording these studies that I have recounted here this afternoon, from Hull House reporting on Chicago to the New York Times reporting on African-American male unemployment at 50 percent between the ages of 16 and 64, which is veritably the entire population, to United for a Fair Economy to the National Urban League to Harvard University to the Kaiser Family Foundation, the reams and reams and reams and reams of paper produced chronicaling the pitiful state that some Americans continue to have to endure.

Mr. Speaker, it is clear that we are leaving too many Americans behind. Our policies are creating two Americas, and, instead of growing together, we are clearly growing apart.

I hope to return to this place, to this well, and do more special orders about this subject and other subjects of interest to my constituents in my district and the people who have voiced their support around the country. We have such serious issues, and the people need our help and our attention.

Mr. Speaker, I am hopeful that this Congress will provide some relief to all of the people who fall into the numbers that I have accounted tonight.

MAKING HEALTH CARE ACCESSIBLE AND AFFORDABLE

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, it is indeed a coincidence today that Democrats in their one hour special order would be led by a Georgian, my colleague, the gentlewoman from Georgia

(Ms. MCKINNEY), and the Republican hour today would be led by myself, another Georgian. I am really, of course, pleased to have this opportunity.

I am going to talk on an entirely different subject to my colleagues, Mr. Speaker, than what we just heard for the previous hour. This time is dedicated really to the Republican Conference Health Care Access and Affordability Public Affairs Team. We put together this team for the purpose of letting our colleagues know, letting the American people know, that the Republicans care deeply about the health of this Nation, particularly in regard to those who are the neediest, whether they are white, black or Latino. It does not matter. People in this country who need health care that really cannot afford it, who are struggling through no fault of their own, we are deeply committed to solving these problems, whether we are talking about Medicare, Medicaid or Social Security for that matter.

These are the so-called entitlement programs, the mandatory spending. When we talk about a budget for fiscal year 2006 of $2.6 trillion, two-thirds of that budget goes to mandatory spending. That means those who meet eligibility requirements, obviously Social Security retirees and disabled and widows and dependent children; the Medicare program, you are 65; or you are younger than 65 and you are disabled, the Medicaid program; or you are poor.

□ 1600

And you do not have the means or the wherewithal to purchase private health insurance or maybe you do not have a job, you do not have an employer that provides health insurance for you. These are the people who meet those eligibility standards, and that is called mandatory spending; and it includes two-thirds of our Federal budget. We have a huge problem with the growth in those numbers because, as our population grows, there are more and more people who are struggling who become eligible for one of these three mandatory benefits. It is becoming a tremendous strain on this country.

Tonight I will focus primarily on the Medicaid program, because our States are in such dire economic stress because of Medicaid, which is a joint Federal-State program, a shared program, if you will.

The President, during the last couple of months, has spent a lot of time talking about the Social Security program. My colleagues know that he has been going all over this country trying to explain to the American people that we are in a real crisis; and certainly, at least I think everybody would agree, there is a serious problem with Social Security because of demographics, because of the fact that thankfully, thankfully, people today are living longer and they are healthier.

As the baby boomers fully mature and that starts the first wave, the leading edge of that wave is upon us in 2008, and as they fully mature, we go from 45 million Social Security beneficiaries today to within 10 or 15 years to having 77 million. And trying to fund that program with a payroll tax that has not increased in a number of years, it is a tremendously difficult problem; and it needs to be solved. It is not something we can put off for other Congresses.

I hear from some of my colleagues, particularly on the other side of the aisle, well, it is not that bad of a problem; why do we not just kind of wait awhile and let somebody else deal with it. I mean after all, 2006 will be upon us pretty soon, and it is the next election that is most important, not the next generation.

I certainly do not agree with that, and I know this President and this Republican leadership does not agree with that at all.

But what we are hearing a lot of times is, well, why are you focusing on Social Security when we have these huge problems with Medicare and Medicaid? I know my colleagues on both sides of the aisle have heard that argument. The point, of course, is that we have focused on Medicare, and I am very surprised at how quickly they forget. It was, after all, just December of 2003 when this body, this Congress, in a bipartisan fashion, passed the Medicare Modernization and Prescription Drug Act. That prescription drug part of Medicare, of course, does not become operational until January of next year, 2006. So we have not had an opportunity to see what benefits that will bring to the program.

We have had an interim program, I think, that has worked very, very well. It is called the Transitional Medicare Prescription Drug Discount Card program. All of my colleagues, Mr. Speaker, remember that, the 1½ to 2-year program, before we get started in the part D prescription drug premium-based, voluntary part of Medicare next year, to give immediate relief, as we did in December of 2003, to let our seniors obtain, for no more than $30 a year and, in most instances, a free Medicare prescription drug discount card, which would allow them to go to the drugstore with those four or five prescriptions that their doctor had written for high blood pressure or control of their blood sugar so their diabetes did not get worse, or something to prevent osteoporosis, or to, as I say, lower blood pressure and cholesterol.

So when they went to the drugstore, they were not paying sticker price. They were getting the same kinds of discounts, competitive discounts that people who were working and had employer-sponsored health care, maybe under an HMO, and they got deep discounts on their drug prices.

This is what the discount program, the transitional program brought to our neediest seniors; and, in fact, those living at or below the Federal poverty level were credited on that card. It became not a credit card, but a debit card; and they got $600 a year for those two years, 2004 and 2005, a total of $1,200 that they could apply to the cost of their prescription medication.

There were other things, Mr. Speaker, and I know my colleagues remember that. If not, hopefully, this will be a reminder. For the first time ever under the Medicare program, new beneficiaries, those just turning 65, were having the opportunity to go to their doctor, to their general doctor, their internist, their family practitioner and having a complete, thorough, head-to-toe physical examination. In the past, Medicare did not pay for that. You could only get reimbursed for a doctor visit if you were sick, if your nose was bleeding, if you had pain in your chest from a coronary and you were staggering because you were about to have a stroke, or you showed up in the emergency room. But just to have a routine physical to find out, hey, is everything okay, to get your blood pressure checked and have that cholesterol level determined, and the screening procedures, or maybe if you had a mammogram to rule out a very early breast cancer; these things were not covered under Medicare.

But under this leadership, this Speaker, this Republican-led Congress, this President brought, in December of 2003, the Medicare Modernization and Prescription Drug Act.

So for everybody to suggest that this Congress is not focused on health care and has done nothing and is wasting our time trying to solve the Social Security problem is just absolutely untrue; and I think fair-minded Members of this body, whether Republicans or Democrats, know that. They know that. They know that we have devoted a lot of attention to Medicare. It remains to be seen, really, how that program is going to work.

All we hear from the opposition is, oh, well, you know, it is going to cost a lot. They misled us, they lied to us, they said it was only going to cost $395 billion, and now it is going to cost $750 billion. I do not know what the true cost is, but I do know this: when, Mr. Speaker, the Congressional Budget Office is calculating the expense of the program, they are talking about what it is going to cost to provide a prescription drug benefit, even though it is premium-based. Like part B, sure, there will be a cost to the taxpayer. The part B Medicare program, Mr. Speaker, a lot of people probably do not realize this, but the premiums, even though they have gone up every year since 1965, and now are approaching $80 a month, they only cover 25 percent. The general fund taxpayers are supporting 75 percent of that cost.

So the prescription drug program will be very similar to that. There will, indeed, be a cost. But what is so misleading is no credit whatsoever is given to the fact that if a person is taking a blood pressure medication to keep them from having a stroke, if a person can now afford to go to the drugstore

and get Lipitor or Pravachol or one of these statin drugs to lower their cholesterol and avert the need for open heart surgery, or someone is able to take Glucophage or insulin so that that diabetic condition does not get so bad that it destroys their kidneys or causes blindness or causes peripheral vascular disease to the point that they need an amputation of a limb or renal dialysis or maybe even a kidney transplant; all of those things, by the way, are currently today covered under Medicare, but extremely expensive.

If we can prevent that by allowing our seniors, our neediest seniors to afford the medication and treat these diseases in a timely fashion, then we save money on part A, being the hospital, the nursing home care, for those who have had a stroke and maybe have to spend the rest of their lives in a nursing home; part B would be the fee that the cardiothoracic surgeons charge to do open heart surgery. We save that money, yet you get no credit, you get no score for that. But, Mr. Speaker, surely, if this program is going to work and if it makes sense, and it certainly makes sense for this physician Member of this body and, furthermore, it is the compassionate thing to do.

So, indeed, to suggest that the Republican majority in this body, led by our Speaker, the gentleman from Illinois (Mr. HASTERT), and that President Bush and his administration do not care about health care and have ignored and narrowly focused on Social Security and forgotten about the needy in this society regarding health care, it is just absolutely, Mr. Speaker, absolutely untrue. I think, again, fair-minded Members of this body on both sides of the aisle would readily admit that.

Now, I spoke at the outset of this hour of the Republican Conference on Health Care, Access, and Affordability Public Affairs Team. That is us; that is me. I am taking all of the time this evening, but we have a strong team. We are not just health care providers, although many of us are physicians and dentists and other people involved in health care. I wanted to take this time to share with our colleagues our vision and our focus and what we are doing to try to make sure that we have a good policy that is fair and balanced and that we are taking care of those who are in most need in regard to health care.

Mr. Speaker, one of the huge problems right now, of course, is the Medicaid program. Again, this is part of our entitlement spending, the mandatory spending, as I outlined at the beginning of the hour, the two-thirds of the Federal budget. Medicaid is a Federal-State program, with the Federal Government actually paying, in most cases, more than the State does, to provide health care for the neediest in our society, especially for children and single mothers. It is a great program. It has served us very, very well. In fact, I have a slide, Mr. Speaker, that I will get up in just a few minutes and I would like to point out how that Federal-State match works.

It is based, really, on average income in a State. A State with a lower average income, a poor State, there is going to be a higher Federal percentage; and the parameters range from a 50–50 participation to 80–20. And if we can focus on this chart to my left, this is not all of the States; I think I was informed that the machine broke and they were not able to get but about half of the States on the chart. But it does include my State of Georgia; and last year in Georgia, the Federal match was 60, almost 60.5 percent, and the anticipated match for the fiscal year 2006 is 60.6. So in Georgia it is about a 60–40 split.

I was looking for Mississippi, which I think is probably one of the States that has the lowest per capita income where the Federal match actually approaches the maximum 80 percent.

□ 1615

It is not on this board. But I think the Federal match in the State of Mississippi is about 78 percent. But it varies. Alabama is here, 70.1 percent Federal participation in 2005. And in 2006, that dropped down to 69.5 percent. There are other States, like I say, that are 50/50. Illinois, as an example, is 50/50. The State of Massachusetts is about 50/50.

Mr. Speaker, this is the way it should be. We should indeed participate more for those States who have the greatest need. One thing, though, that really concerns us, and I think one of the main problems with the Medicaid system, is that there is a significant amount of waste and abuse of the system. And yes, in fact, Mr. Speaker, in some instances, downright fraud. And if a State is a 50/50 state, there may not be much advantage to take an advantage of the system. But if the State has a higher Federal match than the State match, you can see that if you are abusing the system, gaming the system, if you will, then there is an advantage because you are pulling down more Federal dollars than you are spending at the State level.

And so these are some of our problems, of course, that we are facing now with the Medicaid program. The spending is growing more, of course, in times of economic stress and distress. And we have gone through a lot of that in the last several years, particularly since 9/11. And of course the population growth, you are going to have more people who are legitimately eligible for this care. So the spending is going to go up. But we want to make sure that we get dollars to those who are in need and not to those who are in greed, if you will. And that is very important.

And there will be a very strong focus on Medicaid reform, led, quite honestly, by the governors, by the Governors Association, both Democratic and Republican governors. They have been here. They have talked to the President. They have talked to Congress. They have some very good ideas of how to make this system work better and make sure that those who have the greatest need have access to those Medicaid dollars.

I wanted, Mr. Speaker, to share with my colleagues just a few numbers about the magnitude of really what I am talking about. In the year 2002, the total Federal dollars spent on the Medicaid program, now this is just the Federal dollars, $140 billion. That is in the year 2002. In the year 2004, that number has gone up to $184 billion. You know, we are talking about significant increases. From 2001 to 2002, the Federal spending Medicare increased 8 percent. From 2002 to 2003, it was about 9 percent. From 2003 to 2004, in the same range. And on and on and on.

So when people say to me from back home, Congressman, do not cut Medicaid spending because, you know, you are affecting my program. And that could be a physician talking about, you know, his or her reimbursement. It could be a hospital. It certainly is likely to be one of these rural hospitals that is called a disproportionate share, which means their clientele is disproportionately weighted toward the Medicaid program because they are a poor community. And they are concerned, and I understand that.

But what the President did in the 2006 budget that he submitted to us was to cut a certain number of Medicaid dollars over a 5-year period of time. What we have done here in the Congress, the President recommends, and then we legislate. We make the final decision. And it looks like we are going to have a Medicaid funding cut over the next 5 years of $10 billion. That is $2 billion a year but that, we hope and I feel very confident, we can find those savings by eliminating this situation that I described, waste, fraud and abuse.

Now, let me just give you one example, Mr. Speaker, and I want to share that with my colleagues, the nursing home situation, long-term care in a skilled facility. Medicare, under Part A only covers a certain number of days. I think it is something like 100. And after that, the patient is pretty much on their own, and that has to come out of their pocket. If they do not have long-term care insurance, and most people do not, we are trying to address that. This Congress is trying to address that, the Republican leadership, and that is why we put health savings accounts in the Medicare modernization bill of December 2003, so that that money in those accounts can be used without any tax penalty whatsoever to purchase long-term health care insurance. But most people do not have that today. And if a loved one ends up in a nursing home, then once those Medicare dollars, those days of eligibility are utilized, and the person has no other resources, they become what is known as dual eligible because they

have no wealth and no source of income, then all of a sudden they are eligible for Medicaid.

So, the reality today, my colleagues, is that probably 70 percent of nursing home reimbursement is from the Medicaid program. Now, some of that is appropriate. But some of it is inappropriate.

And indeed, there is actually a cottage industry out there where our good attorneys advise people how to hide their income, how to shift their possessions and their net worth to maybe another family member, and all of a sudden they have got nothing. They do not have any wealth. They do not have any income, and they are dual eligible for Medicaid. That, my colleagues, is what I call gaming the system. And when you do that, you take money away from the program, desperately needed money for single moms, for the poor who need prenatal care, for little infants that are born prematurely that need a good start in life, and they cannot get it because there is no money there.

This is something that we, the Republican majority, and hopefully in a bipartisan fashion with our colleagues on the other side of the aisle, we are giving very serious attention to it. And yes, we can walk and chew gum at the same time. We can work on the Social Security problem and fix that, get out of that crisis situation and work on solving the Medicaid problem at the same time. Absolutely, we can. We will. We are doing that, and we will get to the finish line on both of these programs, and we will do it sooner rather than later.

We will not be irresponsible on these issues and put this off and say, Hey, you know, we do not want to touch that third rail because we are worried about our re-election in 2006 and keeping our majority. We are going to keep our majority by doing the right thing. And we will let the elections take care of themselves.

But we have to make sure that we understand, the American people understand, and that we do not let the nay-sayers poison the well like they tried to do on that Medicare discount card.

I was at a little town hall meeting in one of my poorest counties recently in Southwest Georgia, Talbot County, a great community, wonderful people, but poor, very low tax base. And we were talking about Social Security. Miss Menafee came up to me after the hour and a half town hall meeting, and she said, Congressman, thank you for that information on Social Security. I think I really understand it better now. I have been getting those automated phone calls and those slick glossy mailers. I do not know whether they were from AFL–CIO or George Soros and some 527, but thank you, Congressman for helping me understand it better, to see how an individual personal account can grow and have the miracle of compound interest. But I just want to say to you, also, thank you for Medicare modernization. And thank you from the bottom of my heart for that prescription drug discount card, that transitional program.

Miss Menafee told me that she had been spending something like $400 a month for five or six drugs that she desperately needed, and because she was eligible for that $1,200 credit and the lowest pricing, in fact, I think maybe a dollar, $3 copay, she said she had reduced over $400 a month worth of medical expenses to $9 a month.

Miss Menafee, God bless you. And she is 80 years old and looks healthy, and I think she is going to outlive us all because of what we did. So that is the compassion. That is the thoughtfulness that this Republican leadership, this majority has in regard to the health care program.

Mr. Speaker, I guess I could go on probably long beyond my allotted hour. But I am going to try to go ahead and bring this to a close because I think, hopefully, my colleagues have heard me loud and clear and understand that we care about health care. We care about the uninsured.

We have passed association health plans in this body at least twice, and we will continue to pass it. We have passed tort reform so that doctors and hospitals are not ordering all these unnecessary tests. And every individual that walks into an emergency room with a headache does not need a CAT scan, but they are getting it because the doctors are afraid they are going to be sued, or the hospital, and that is why people cannot afford health insurance.

All that defensive medicine, these additional lab tests, it drives the price of health insurance up so high that it is out of reach for far too many people. And we end up with 43 million in this country who have no health insurance, and most of them are working. But we are going to help them. Again, we are going to help them by what we have done in Medicare modernization, give them an opportunity to set up through their employer a health savings account where they can get catastrophic insurance for a very low premium, Mr. Speaker, a very low monthly premium, and then the employer or a relative or a friend can help them fund an account that can grow, that can enjoy the miracle of compound interest, that they can use that money for a lot of types of things that traditional health insurance does not even cover, eye care, dental care, mental health services, just so many things.

So it is a pleasure to be part of this team, to be here tonight, to be talking about what we, the Republican health care access team, is doing.

But, you know, again, I want to make sure my colleagues understand that I am not an overly partisan person. It is not all about left versus right or Republican versus Democrat. It is right versus wrong, and I think we need to focus on doing the right thing, and we ought to try to do it as much as we can in a bipartisan fashion.

And to that point, Mr. Speaker, I want to let my colleagues know that we have recently formed a medical/dental doctors in Congress caucus in this House. There are 13 of us. There are three dentists. There are ten MDs. Three of those MDs are on the democratic side; seven on the Republican side. And we are going to work on these issues in a bipartisan fashion.

You know, I thought yesterday, as we had that plane, that little Cessna that inadvertently got in the airspace over the Capitol, and we all went just, I mean, pouring out of here in semi panic, although the Capitol police did an excellent job of keeping people calm, but, you know, making sure that we got out of harm's way as quickly as possible.

□ 1630

You have to take every one of these threats seriously, and I could not help but thinking as I was running down the street, where are the other 12 members of our physician and dental doctor caucus?

We probably were all going in a different direction. My co-chairman of that caucus is the gentleman from Arkansas (Mr. SNYDER), Mr. Speaker, a great Member of this body. The gentleman has been here a good bit longer than I have been, a fine doctor from Arkansas.

The gentleman and I have been working together. That was one of the things we were talking about last week. The next meeting we have, we are going to make sure that we work with the House physician so that this team would know what we would do in a situation like that so we were not all going in different directions. Maybe all 13 of us, hopefully the caucus will grow, I like doctors and dentists in Congress, but we could go to a designated spot so if this really truly turned out to be a terrorist attack, we would be part of the solution and not part of the problem.

Again, as I speak to my colleagues this afternoon and I am deeply appreciative, Mr. Speaker, of the opportunity to talk about what the Republican majority is doing on health care, I do not want to forget that the American people do not like a lot of partisanship and animosity and, indeed, hatred. We do not accomplish anything in that fashion. I am very proud to be part of that new bipartisan caucus as we work towards solving these problems.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 6913, and the order of the House on January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House

to the Congressional-Executive Commission on the People's Republic of China:

Mr. LEACH, Iowa, co-chairman;
Mr. DREIER, California;
Mr. WOLF, Virginia;
Mr. PITTS, Pennsylvania;
Mr. ADERHOLT, Alabama.

THE DANGERS OF CAFTA

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I enjoyed hearing my friend, the gentleman from Georgia (Mr. GINGREY), and his comments about Medicare.

I know that my Republican friends care about health care. But unfortunately, they care more about the drug companies and the insurance companies than they do in providing low-cost prescription drugs and health insurance to the 50 million Americans who do not have health insurance.

I did not come forward today to talk about Medicare, particularly, except to note that when Congress passed the Medicare bill last year, a bill that a couple of years ago was not received by the public very well in part because they did not tell us the truth about the cost of the bill, it ended up costing almost $1 trillion when they told Congress it would only cost $400 billion.

But more than that, this bill provided literally 180 additional billion dollars to the drug industry profits and had direct subsidies of about $60 billion to the insurance industry.

So I wish, while my Republican friends, I do believe they care about the poor, they care about working people, they care about health insurance, unfortunately their caring so much more about the drug industry, the insurance industry, it sort of gets in the way of too often doing the right thing.

I come forward this afternoon, Mr. Speaker, to talk a little bit about the Central American Free Trade Agreement which, frankly, will likely be defeated in this Congress bipartisanly. This is not a partisan issue. It is an issue of justice, an issue of jobs, and an issue of where our country and our economy goes.

Two weeks ago, more than 150 Republicans and Democrats, Senate and House Members, pro-business, pro-labor groups gathered on Capitol Hill to speak out against the Central American Free Trade Agreement. Republican House and Senate Members and Democratic House and Senate Members joined with these outside groups, this group of unlikely bed fellows perhaps, to speak with one voice of the unified message to vote against the Central American Free Trade Agreement.

CAFTA expands on the failed trade policies of the North American Free Trade Agreement and expands on those policies by enlarging NAFTA, the North American Free Trade Agreement, to six Central American countries, including the Dominican Republic.

When I ran for Congress in 1992, I do not want to bore my colleagues with numbers, when I ran for Congress in 1992, the United States had a trade deficit of $38 billion. We thought that was way too big. That meant we were buying, importing $38 billion more worth of goods than we were exporting; $38 billion trade deficit we had in 1992.

Last year after NAFTA, after PNTR with China, after several other trade agreements over the last decade-plus, our trade deficit is $618 billion, from 38 to 618 billion.

Now, you can see the trade deficit with Mexico as an example, prior to NAFTA, the year I came to Congress, in 1992, we actually had a trade surplus with the Republic of Mexico. We actually sold them more than we bought from them. Look what happened after NAFTA. Look at these numbers. This is zero right here. We had a trade surplus in those 4 years prior to NAFTA. Then all of the sudden 10 billion, almost 20 billion, 25 billion, over 30 billion, almost 40, over 40, approaching a $50 billion trade deficit with Mexico.

Now, George Bush, Sr., who originally negotiated the North American Free Trade Agreement, he said that $1 billion in imports or exports represented about 12,000 jobs. That meant if you have a $3 billion trade surplus then that is three times 12,000. You would have 36,000 more jobs in your country. If you have a $3 billion trade deficit, you would have 36,000 fewer jobs in your country.

Look at this. We went from a $38 billion trade deficit overall to $618 billion. You do not need to do the math except you just sort of estimate and you see what these trade agreements have meant to the American people, to our economy, to our manufacturing base.

In my State of Ohio we have lost 200,000 manufacturing jobs. One out of 5 manufacturing jobs in my State has disappeared in the last 4½ years since President Bush took office. Those manufacturing jobs have been lost for a lot of reasons. The most important reason is NAFTA and PNTR and these trade agreements.

Unfortunately, these trade pacts like NAFTA and like CAFTA enable companies to exploit cheap labor in other countries and then import back to the United States under favorable terms. The Central American Free Trade Agreement should probably be named the Central American Free Labor Agreement because that is really what it is all about.

About 5 or 6 years after NAFTA passed, in the mid-to late 1990s, at my own expense I flew to McAllen, Texas, rented a car and went across the border to Reynosa, Mexico because I wanted to see what NAFTA looked like, what these free trade agreements looked like. I wanted to put a face on these numbers. These numbers are persuasive. They certainly convinced me and I think convinced many that these trade agreements are bad ideas. But I wanted to see real faces and real people and put real names next to those faces and people so I really could understand what this global economy looked like.

I went to the home of two people who worked for General Electric Mexico. They lived in an area about 30 feet by 30 feet, maybe smaller than that, probably more like 20 feet by 20 feet. No running water. No electricity. Dirt floor. When it rained hard, their floor turned to mud. Both of these people worked at General Electric Mexico. They lived 3 miles from the United States of America.

Now, if you walk outside their little shack into their colonia, their neighborhood, 3 miles from the United States, you will notice as you look around a couple of things. The first thing you will notice is there is a ditch nearby with who-knows-what human and industrial waste running through this ditch, maybe 4 feet wide. Children playing in this ditch because children will play wherever children play.

The American Medical Association said this area along the Mexican-U.S. border was the most toxic area in the Western Hemisphere. So no telling what kinds of diseases these children could get from playing in this ditch.

If you walk through the neighborhood more, you will notice that all of these shacks were built out of packing materials, boxes and wooden crates and wooden platforms, coming from the companies from where they worked. So you could tell where these workers worked just by walking through the neighborhoods and looking at the shacks, shacks literally constructed out of packing materials for these companies they worked for.

The point of the story is when I went to a General Motors plant nearby and what I noticed was this General Motors plant looked just like a General Motors plant in Lawrencetown, Ohio, and just like a Ford plant in Avon Lake, Ohio, or just like a Chrysler plant in Twinsburg, Ohio. It was modern. It was new, newer than the plants in my State. The floors were clean. The workers were working hard. The latest technology.

There was one difference between the General Motors plant in Mexico and the auto plant in Ohio. And the different was the auto plant in Mexico did not have a parking lot because the workers were not paid enough to buy the cars which they make.

You can go half way around the world to Malaysia to a Motorola plant. The workers do not make enough to buy the cells phones which they manufacture. You can go back halfway around the world to Costa Rica, one of the countries in the Central American Free Labor Agreement, and the workers at a Disney plant do not make enough to buy the toys that they manufacture.

You can go back halfway around the world to China and go to a Nike plant

and the workers do not make enough to buy the shoes that they manufacture.

That is what is great about our country. In our country because of labor unions, because of labor laws, because of our democracy workers share in the wealth that they are creating. If you work at General Motors or you work at a hardware store or wherever you work, if you help your employer make a profit and create wealth at that company or create value as a nurse at a hospital or a teacher in a high school, you share in the wealth or share in the good that you do. You get a share of those profits, a share of that wealth. That is how our country works.

Unfortunately, it does not work that way in Mexico. And as you will see, frankly, it does not work that way in the other countries that are part of the Central American Free Trade Agreement.

The average worker in the United States makes $38,000. That is enough to buy shoes, maybe to send your kids to college. It is enough to live in a decent place. It is enough to own a car. It is enough to go to the grocery store. It is enough to buy some things. But if you look at the rest of the countries in the Central American Free Trade Agreement, Costa Rica, the average income is $9,100. In the Dominican Republic it is $6,000; El Salvador, $4,800; Guatemala, $4,100; and in Honduras and Nicaragua it is less than 10 percent of the income that Americans make: $2,600 in Honduras; $2,300 in Nicaragua.

The combined purchasing power of these six countries, the combined purchasing power of the Central American countries is equal to that of Columbus, Ohio, or Orlando, Florida.

When you think about the combined purchasing power and you look what these people in those countries earn, you know they do not make enough to buy a car manufactured in Ohio. They do not make enough to buy prime rib coming from cattle in Nebraska or Colorado. They do not make enough to buy software from the State of Washington. They do not make enough to buy steel from West Virginia. They do not make enough to buy clothes from North Carolina or South Carolina or Georgia.

The fact is this Central American Free Labor Agreement is not about U.S. companies and U.S. farmers exporting their products to Central America. That will not happen because the Central American people are not paid enough to buy American products.

What this agreement is all about is simply outsourcing of jobs; is American manufacturers moving production to Central America and setting up plants and paying workers wages that barely keep them alive and then selling those products back to the United States at tremendous profits.

I have visited a factory in Nicaragua where the workers are making 23 cents per pair of jeans that they sew. They get 23 cents for a pair of jeans they sew, and that pair of jeans is sold at Wal-Mart in the United States for $25 or $30. So the company is getting rich. The workers stay poor. And unfortunately, that is what is going to happen and get worse if CAFTA passes.

If you want more proof already than this, the trade deficit, the amount of money that people are making, the fact that they simply cannot buy American products, let us look at the politics of it for a moment.

The President of the United States has sent five trade agreements to Congress. The first four trade agreements, the trade agreement with Morocco, one with Chile, one with Singapore, and one with Australia, all passed the Congress overwhelmingly in fewer than 60 days, in less than 2 months. This time the President sent this trade agreement to us is almost a year ago, 348 days ago to be exact.

Now, the reason the President sent this a year ago and Congress has not moved on it is simply because the American people understand what these trade agreements do to our country. Not just what they do to a family that loses a job. But what that means to that family, what that means to that school district, what that means to police and fire protection is that they do not have the kind of tax revenues when a plant closes down in a community and moves to China or moves out of town. All of that the American people understand it.

It is finally after all of these trade agreements, the Congress of the United States has finally figured it out. That is why we have not voted on the Central American Free Labor Agreement yet, simply because the American people understand this trade agreement is not working. It has not worked in the past. These trade agreements will not work in the future.

The President has tried to get it to pass in Congress, and Congress simply does not have the votes to pass it.

□ 1645

Earlier this spring, the majority leader, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the Congress, has announced that we would vote on Central American Free Trade Agreement by the end of the month, by May 27 before Congress leaves for Memorial Day weekend.

That will mark literally the 1 year deadline, the 1 year anniversary, since CAFTA was signed by the President. That means with CAFTA, if CAFTA's not voted on by then, it is dead in the water. The issue is dead on arrival. It is clear the American people have said no and the U.S. Congress has said no.

Once this 1-year anniversary passes, a lot of us who are opposed to this agreement say the President, I think the 1 year really means, okay, it has failed, it is time to go back to the drawing board and write a Central American Free Trade Agreement that we can pass.

Clearly, there is a desperation among those people who have pushed Central American Free Trade Agreement in this Congress, that they have not been able to convince the American people that it is a good idea. So they are trying one last-ditch effort and that happened this week.

This week the Presidents of the Central American countries and the Dominican Republic and six countries under CAFTA are touring the United States. The six Presidents of these countries are on a United States Chamber of Commerce junket pushing CAFTA. They went to Miami, Los Angeles, Albuquerque, to my State to Cincinnati, and they are attempting to convince the American people and the press that CAFTA is good for their country, good for their people and good for our country and good for our people.

Like our own President, like in this country, these six Presidents have tried to convince everybody that CAFTA will lift up low income workers and that CAFTA will create jobs here in the United States. What they do not say is they do not talk about the combined purchasing power of CAFTA Nations equal to that of Columbus, Ohio, or Orlando, Florida, or Memphis, Tennessee. They do not mention that.

They do not mention the fact, as I said earlier, that the workers in Central America cannot buy cars in Ohio or software from Washington State or steel made in Pennsylvania.

What we do not hear from them is that CAFTA does nothing to ensure the enforcement of internationally recognized labor standards in their countries, and with all due respect to the Central American leaders, what they are not saying and what millions of us know already is that millions of their workers, like 10s of millions of American workers, do not support this agreement. The Presidents may support them, but the workers in their countries and our country do not support this agreement.

What they will not tell reporters, what they did not tell reporters in their Chamber of Commerce junket around the United States is that 8,000 Guatemalan workers protested against CAFTA 2 months ago. Two of them were killed by government security forces.

They do not tell us that 10s of thousands of El Salvadorans protested CAFTA two-and-a-half year ago.

They do not tell us about the 18,000 letters sent by Honduran workers to the Honduran legislature, decrying the dysfunctional cousin of CAFTA, NAFTA.

They do not tell us about the 10,000 people who protested CAFTA in Managua, Nicaragua, in 2003.

They do not tell us about the 30,000 CAFTA protesters in Costa Rica this past fall.

They do not tell us that hundreds of thousands of workers have protested in Central America in 45 different demonstrations in the last 3 years.

Opposition to CAFTA is as strong in Central America as it is in the United

States. I ask my colleagues in this Congress, when the Presidents of Central American countries come around to our offices, as they have, and ask us to vote for the Central American Free Trade Agreement, understand, they may support it for whatever reasons, but the people of their countries, in large numbers, do not.

A couple of nights ago, after the Chamber of Commerce tour of America that the six Presidents took, the Chamber of Commerce hosted a reception for the visiting dignitaries, rewarding them, thanking them for their lobbying efforts this week. You can imagine this very plush room at the Chamber of Commerce, in its beautiful structure in downtown Washington, where the chamber has its very nice offices.

You can imagine the leaders, the CEOs, of the most powerful and largest corporations in our country were raising toasts, thanking the six Central American and Dominican Republic Presidents for their campaigning for this issue. Then you can see the six Presidents raising a toast to the Presidents and CEOs of the largest companies in America, thanking them for their support.

It just made you wonder were the CEOs or were these Presidents thinking of the millions of workers and hundreds of thousands of workers in each of these countries, millions of workers in the United States, who are opposed to this agreement and who knew that this agreement would bring more problems for America.

Did they think about the small businesses in Ohio and Michigan that do not want another failed trade agreement? Did they think about the small stores in Managua and Santo Domingo and in San Juan that would go out of business and that would be pushed out of business because of these trade agreements? Did they think about the family farms in North Carolina or the coffee farmers in Costa Rica or the highlands of Nicaragua? Did they think about the sugar farmers in Minnesota, in eastern Oregon and in Idaho and in Minnesota and Louisiana? Or did they think about the sugar cane workers in Central American? My guess is they did not.

When I think about these trade issues, and I again go back to this chart as I am about to close, I go back to this chart which shows the relative income of each of these Central American countries, and when you think about where we want to go with our trade agreements and what has happened to our trade agreements, we have seen so much pain on each side.

We have seen pain in O'Leary, Ohio, near where I live, a town of about 50,000, industrial town which has had certainly its tough times. When York Manufacturing shut down its plant and moved much of its production to Mexico, think about those families; the unemployment in that community; people losing their jobs; kids not able to go to college; people, their homes are foreclosed on; what happened to the school district, which lost a big chunk of money; what happened to police and fire protection in that city because they lost so much tax revenue. Then you think about what happens to workers in the developing world in these countries when these trade agreements inflict the damage that they do on them, these workers, the family I met in Mexico that worked at General Electric, that could barely make a living and what happened in their lives and the pain they felt.

You think about the damage, both in the rich world, our world, the United States, the rich countries, and you think of the poor countries and the damage there. Instead, we could pass not this Central American Free Trade Agreement. When the time runs out, when this clock is down, when the deadline passes and CAFTA is dead, it is time to pass a new Central American Free Trade Agreement, negotiate a new one that will really lift workers up, because trade agreements work when the world's poorest workers, the workers for Nike in China, the workers for Motorola in Malaysia, the workers for Disney in Costa Rica, the workers at the auto plants in Mexico, when the world's poorest workers can buy American products, rather than just make them, then we will know, Mr. Speaker, that our trade policies are finally succeeding.

ENERGY

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, we are here this afternoon to build on a discussion that was started last evening when five of us were here on the floor to talk about the problem of energy in general and about oil and peak oil in particular.

I would like to start with a chart that shows some curves that will lead us to this one. Here, we have a 2 percent growth curve, and what this is is the rate at which we are increasing our demand for oil. You will see that it is exponential. It is not a straight line. It goes out and up, and the further you go, the steeper it gets. I wanted to talk for just a moment about these exponential curves because I think a lot of people do not understand the exponential function.

There is a very interesting story about the person who a very long time ago invented the game of chess, and the monarch of the kingdom was so impressed with that contribution that he told the inventor that any reasonable thing that you ask, I will give you. The inventor said, I am a simple man, with simple needs, and if you will simply take my chess board and put a grain of wheat on the first square and 2 grains of wheat on the second square and 4 grains of wheat on the third square and 8 grains of wheat on the fourth square and just continue, continue doubling the number of grains you put on each square until you have gone through all the squares of the chess board, that will be reward enough for what I have done. The king thought he had gotten off lightly; geez, that is easy.

He could not do that, of course, because if you do that, go to the 64th power, that would represent all the wheat that is grown in all the world in 4 years of harvest, I understand, and you notice that is the exponential function.

We see here just a 2 percent growth curve, and many people think of 2 percent growth as a straight line. That is only 2 percent for the first year, but then if it is going to 2 percent for the second year, it is not going to be 2 percent of what existed at the end of that year. So you are kind of getting interest on interest which is what compound interest is, and I think many people have a little appreciation of compound interest.

This is a 4 percent growth curve. It quadruples in 35 years. This is a 5 percent growth curve, and China now is on a 10 percent growth curve. That is this curve. In 7 years, if they continue on this curve, their economy will double, and their use of oil will double if it follows the economy. There is not much way to keep it from following the economy. In 14 years, they will be using four times as much oil, and in just 21 years, they will be using eight times as much oil.

The next chart kind of puts the thing in perspective as far as our country is concerned. We have 2 percent of the world's oil reserves, and we use 25 percent of the world's oil, and we import about two-thirds of what we use. That is up, by the way, from the Arab oil embargo where we imported just about a third of what we use.

Two other figures are of interest. One is that we represent less than 5 percent of the world's population. We are about one person in 22 in the world, and this one person is so fortunate that we get to have 25 percent of all the good things in the world, a subject for another discussion, but I wonder, Mr. Speaker, if you have asked yourself the question, how come that is true; what is so unique about this country and our culture that this one person in 22 has a fourth of all the good things in the world? Perhaps we will come here to the floor another day to talk about that because I think there are some real lessons to learn. If you understood how we got here, then we might understand what we need to do to stay here, but that is not the subject of tonight's discussion.

With only 2 percent of the world's oil reserves, we produce 8 percent of the world's oil. What that means, of course, is that we are really good at pumping oil. We know how to get oil out of the ground better than almost anybody in the world. As a matter of

fact, we are so good at that, that the Chinese have come here. They may still be here. They were here a few days ago, and they were coming to try and see how we do it, because we are really good at getting oil out of the ground.

What that means, of course, is for the moment we are better off because with 2 percent of the world's oil reserves, we are getting 8 percent of the world's oil. So we are really maximizing the opportunities we have from the oil that is available to us.

The next chart will show us one of the consequences of this, and I have to go back now about 6 decades to put what we are talking about in perspective.

There was apparently lots of oil available in the world at that time. We were awash in oil, and gasoline was very cheap. I remember buying it at 6 gallons for a dollar. You could not do that today, no matter what the price of crude oil was, because I think there is $0.48 tax per gallon.

□ 1700

And then, obviously, there was a much lesser tax per gallon, because I remember buying gas, 6 gallons for a dollar.

There was during the 1940s and 1950s, a scientist working for Shell Oil Company named M. King Hubbert. He became quite an icon in that world because he made a prediction in 1956 that the United States would peak in its oil production; that we would reach a maximum capacity for pumping oil in this country in about 1970. He made that prediction 14 years before the date at which he said it would happen.

He made that prediction because, as a student of this technology, he had watched the exploitation and the depletion of individual oil fields. He noticed that for every oil field the rate of production increased and increased until after it reached a peak, and then after it reached a peak it was more difficult to get, and so it fell down the other side of the slope, and it always followed a bell curve.

Here we have a bell curve. As a matter of fact, that is the bell curve, the green there. That smooth green line is a bell curve that was predicted by M. King Hubbert. The more ragged green line are the actual data points where they fell on that curve, remarkably close to his predicted curve.

If we look at the next graph, and by the way, before we look at that one, the red one here shows Russia. There are charts for a lot of countries, because a number of countries have now peaked in their oil production.

In this next one, the red one here shows Russia, really the Soviet Union, and they kind of fell apart. And notice that the actual production did not follow the predicted curve. They now are capitalizing on that and they are having a second little peak here, but it is still falling off.

Notice the blue lines here. We will talk about that in just a moment with the next chart here, because what the next chart does is to show where we got our oil from and where we were getting it from when M. King Hubbert made his prediction. When he made that prediction back here in 1956, we were getting a tiny bit of natural gas liquids, and we were getting about half of our oil from Texas and the other half from the rest of the United States.

He predicted that by 1970 that we would peak. And he did that because he rationalized that if you took each one of these little oil fields that was going to follow a bell curve, and if you added up all the little bell curves, you would get one big bell curve for the whole country. And so with some confidence he predicted, by estimating the additional oil that we would find, he predicted when we ought to peak. As a matter of fact, we did peak in 1970.

When we were falling down the other side of Hubbert's Peak, we discovered oil in Prudhoe Bay in Alaska; and there was a lot of oil there. There was hopes that this would solve our oil problem. You see what it did? There is just a little blip in the slope down the other side of Hubbert's Peak. That, by the way, represents about 25 percent of our present production of oil. That is tailing off, as you see, because we are now down pumping relatively the last oil out of Prudhoe Bay.

I am sure, Mr. Speaker, that you can remember all of the hullabaloo, I guess is the best way to say it, about the enormous oil finds in the Gulf of Mexico. We were going to be home free. It was energy and oil for the foreseeable future. That is the little yellow segment here. That is how much it amounted to.

The next chart shows the discovery of oil. We have been talking so far about the production of oil, and the reality is that the world found its oil many years before it produced oil. I hope there is a whole lot of oil out there that we have not found; but by the time we finish this evening, I think you will agree that for our present situation and for the next few years, it really is not going to be of much moment whether we find a whole lot more or not. I hope we do. I do not think the industry expects that we will, because they are now awash in cash. And you may or may not know, they are not spending a lot of that money on prospecting. They believe that they have found much of the oil that is out there to find.

This chart reflects worldwide. Our peak occurred well before this, but worldwide the peak discoveries occurred back here in the mid-1960s, and now we are reaching the peak production about 40 years later. That is roughly what it was in our country, about 30 or 40 years later after we had the maximum discoveries, then you have the maximum exploitation and the highest pumping of that oil.

We were already 10 years down the slope of the other side of Hubbert's Peak when Ronald Reagan came to office. And he and his administration understood that we were becoming every day more dependent on foreign oil, and so they had a solution to the problem. It turned out to be not the right solution, but at least they tried to do something. You may remember those days, and the philosophy was that the marketplace solves problems. And with unlimited resources, the marketplace is great at solving problems. So they theorized if we just gave our oil industry an excuse, an incentive to drill more wells, that they would go out and drill more wells and they would find more oil. So we put in place a number of incentives to go out and drill more wells and, boy, it worked.

This was the rate at which we were drilling wells. And then after Reagan came in, notice how it shot up. Now, the green here represents the excess we had compared to what we were pumping. The red represents a deficit that we are now using more than we pump. And notice that the increased drilling coincided with the beginning of a surge in red, which continued more and more. And notice how drilling has fallen off.

With us having only 2 percent of the reserves and using 25 percent of the world's oil and importing two-thirds of what we use, and with oil at $50 a barrel, you would think that with the big profits the oil companies have that they would now be drilling a lot of wells. They are not drilling a lot of wells. Could that be because they have some reasonable confidence that they have probably found most of the oil that is out there to find?

The next chart shows us something very interesting. We are not the only country in the world that uses oil. China, of course, is a big user of oil. As a matter of fact, they are now the number two importer of oil in the world. I think they are the number two user of oil in the world. They just surpassed Japan, with 1.3 billion people that have some qualities that you can admire, because they are the qualities, at least some of the reason, that America is the great country that it is. We had a great work ethic. We had a great respect for education. And we have been the most innovative society in the world.

But now the Chinese are rivaling us and maybe surpassing us in the work ethic. And if you look at our schools, particularly our technical schools in science math and engineering, you might conclude they had a little more respect for technical education than we have, because not only have they filled the schools up in their country, and they have some pretty good schools there now, but they are also about half the students in our country. Their economy has been growing at 10 percent a year. Last year, they increased their demands for imported oil by about 25 percent. I hope that does not continue, because if it does, the world is going to have an oil crunch or crisis a little sooner than it might otherwise.

This map of the world, and by the way there is an interesting depiction here, and that is the green, which is Russia. By the way, this should be colored green over here too, right next to Alaska. Russia spans 11 time zones. They go almost halfway around the world. And they have got a lot of oil over in what is called the Far East of Russia, over here near the Sakhalin Islands. And China, this symbol here represents China's negotiating with Russia, and they may very well build a pipeline from Russia's Far East down to China, maybe on down to the Korean Peninsula, because the Russians have the oil and the Chinese need the oil.

Not only are they working there to get oil, but they are certainly several places in the Middle East. They are in Africa. They have contracts in these areas. And in many areas they are buying access to facilities to make sure that they will have more reasonable access to oil in the future. They are in our back yard. They are in Colombia; they are in Venezuela.

By the way, they are talking about building a canal across the Isthmus of Panama so they can move oil from one side to the other to more quickly get it to China.

They are in Brazil. They are in Argentina. They are scouring the world for oil. As a matter of fact, they have locked up the oil from the oil sands in Alaska, oil sands that I suspect we are counting on, because Canada is a big exporter to the United States. But they now have, I understand, a 40-year contract, locking up at least some of the production of the tar sands. And that production may well drop off so that the oil available to them through this contract may be a major part of the oil produced in Canada.

This is a reality that we must deal with. Although we are now big, using a fourth of the oil in the world, China, with 1.3 billion people, with an economy growing at 10 percent a year, will double in 7 years. Our economy has been growing more or less 2 percent a year. We are pretty good at efficiency, so our use of oil has only been growing at 2 percent. Even if our economy grows a bit more than that, this 2 percent growth means it will take 35 years before we double our use of oil. But China, at their 10 percent, will only go 7 years before they double the use of their oil.

So when we look to the future, we will have to recognize that there will be a lot more people out there needing oil and looking for oil than just the United States.

The next graph shows us something pretty interesting. It goes back through history, and we go way back. Here we go back to the 1600s and the 1700s, and what this chart shows is the development of the Industrial Age. The first energy source that we really learned how to use was fire and wood, and that is the brown here. You see that we developed an economy with wood. This shows how many quadrillion Btus were produced by wood.

By the way, the Industrial Revolution almost floundered because we were stuck on wood for too long. England was largely denuded of trees to fuel their furnaces for making steel, and we largely denuded New England. I understand there are more forests in the New England States, New Hampshire today, than there was at the Revolutionary War, because those trees had been cut and hauled to England for charcoal to make steel.

But then we found coal, and look what happened to the economy, because coal has a higher energy density than wood. So the economy grew to five times the size in terms of quadrillion Btus.

Then we discovered a fuel source, an energy source even more convenient than coal, and that was oil, and that is the red line here. That is oil and gas, because they frequently occur together. Sometimes it is only gas if you are very deep, and the heat of the Earth and time so that most of the oil has now kind of been converted into gas. But many of the other reservoirs have oil and the gas trapped above it, with a dome of rock over it so it holds it. Otherwise, the gas would have leaked out and the oil would have been of poorer quality as a result of that.

□ 1715

You may have seen pictures of many oil wells in the past that had a big flame burning there at the well. That is because of the natural gas that occurred with the oil, and it was just a product that they did not have any use for because you cannot put gas in a truck and haul it and so they just burned it off at the wellhead. Now, of course, we do not do that and gas is becoming a very precious commodity.

Notice that when we were using a lot of wood, we were using very little coal. When you looked at the energy use across our country in those days, very little coal used and a lot of wood, but soon there was a lot of coal and less wood because coal was more efficient. And look how small oil was here when coal was a big, big factor. But then when we started using oil and found out how superior it was for many uses as compared to coal; why, the use really shot up.

What is there on the horizon today that could take the place of oil when we have run down the other side and as we are running down the other side of Hubbert's peak? The lower curve here, and we have here separated out the petroleum and the natural gas so you do not have the big peak here. If you added these two together, it would be the red line there. We have many fewer years, just this little segment in here. But notice at the bottom those things that we might look to for the future. Nuclear, getting 20 percent of our electricity now, it is not a big percentage of our total energy, but it is meaningful. And solar and wind, they are very little down here but these are the kinds of things that we need to look to for the future.

I would like to go back to the first chart that is on the board here now and just spend a couple of minutes looking at this because this kind of tells us where we are or where we are shortly going to be in the future. This is Hubbert's Peak. By the way, we can make this peak very steep. By compressing the abscissa and expanding the ordinate, you will make it a very steep peak. So whether it is steep or spread out just depends upon the scale you use. Two percent growth. Notice that, at some point, as we near the peak that the 2 percent growth, and that is the oil you would like to use. The blue down here is the oil that is available. Up until this time, all the oil we needed to use has been there. That is pretty much where we are today; although there may be a bit less than we would like to use because oil is not $20 a barrel, it is $50 a barrel. That may reflect an already recognized shortage or potential shortage.

As time goes on, you see the enormous variance between the oil that we would like to use and the oil that is available to use. I would like to make a point that, if we use all the oil for our ordinary economic functions that is available to use, that we are dooming ourselves to a very rough ride in the future, because we will need a bunch of energy, much of it from oil, to develop the alternatives that will be essential as we slide down the other side of Hubbert's Peak. So, at this point in time, we cannot use that much oil when we would like to be using that much. We can only maybe use that much oil, so we are going to be in a position, unless we can reduce our use of oil to about half of what it is now, we are not going to have the energy available to invest in the alternatives so that will ultimately free ourselves from this dependence on a diminishing resource.

From our perspective in this country, our dependence on a resource that is largely in foreign lands and much of that, a great deal of that, as the President himself said, is in countries that do not even like us and that may be pretty terrible in expressing their attitude toward us.

There are many observers of this phenomenon of peak oil that do not believe that we as a country and we as a society have either the wit or the will to do the things that we really need to do to avoid a train wreck in the future. I would just like to read from a few of those. Some of these names you will recognize because some of them are very prominent names. The first is from a Matt Savinar who wrote a treatise, which I have here and you can find it, Life After the Oil Crash. Just do a Google search and go to Peak Oil and you will find Matt Savinar and Life After the Oil Crash. I would encourage you, Mr. Speaker, to read that if you have not. This is the way he begins his treatise. I almost put it down. I said, This guy has to be a nut to say this. This is what he said. I did not put

it down. I am glad I did not put it down. I read it through. When I finished reading it through, I found it very difficult to argue with his premises unless we make a big, big effort in this country and worldwide to avoid what he says will happen. This is how he begins this article:

''Dear Reader,

''Civilization as we know it is coming to an end soon.''

That is enough to grab your attention or to convince you that, gee, this guy is a nut, I don't need to read that.

''This is not the wacky proclamation of a doomsday cult, apocalypse Bible prophecy sect, or conspiracy theory society. Rather, it is the scientific conclusion of the best-paid, most widely respected geologists, physicists and investment bankers in the world. These are rational, professional, conservative individuals who are absolutely terrified by a phenomenon known as global peak oil.''

If this is true, Mr. Speaker, why have you not been hearing about this? That is a very reasonable question to ask. There is an aversion to bringing bad news. As a matter of fact, in ancient Greece, the bearer of bad news frequently paid with his life for the fact that he brought bad news, and politicians frequently pay with their seat for the bad news they bring the people. And since this was a problem where the sky probably was not going to fall on my term, let's let the next guy deal with it.

We have in our country the tyranny of the urgent. In the business world, they always deal with what is urgent. In dealing with the urgent, you may put off the important. The urgent thing for a business is to have a good quarterly report. If you do not have a good quarterly report, your stock is going to drop, the board of directors may meet, and you may not have your job. So you need to have a good quarterly report. Looking down the road to make the kind of investments that you need to make in the event that Hubbert and, by the way, I really need to emphasize something. M. King Hubbert was dead right, right on, for the United States. He predicted it precisely. Why should he not be right for the world? In 1973, he predicted that the world would peak in oil production about the turn of the millennium. It occurred a little bit later because he could not have anticipated the Arab oil embargo and its consequences or the oil price spike hikes or the worldwide recession that occurred most largely because of the price of energy. So now we got about another 5 years. Somebody should have noticed that M. King Hubbert was right about the United States, and if he was right about the United States, maybe he could be right about the world. And if he could be right about the world, then should we not be doing something about the situation in the world?

I was privileged to have lunch today with, I think, the largest energy investment banker in the world, Matthew Simmons, adviser of the President, widely known by many people in both the economic area and in the oil area.

''Simmons is a self-described lifelong Republican. His investment bank, Simmons & Company International, is considered the most reputable and reliable energy investment bank in the world.

''Given Simmons' background, what he has to say about the situation is truly terrifying. For instance, in an August 2003 interview with From the Wilderness publisher Michael Ruppert, Simmons was asked if it was time for peak oil to become part of the public policy debate and this was his answer:

'' 'It is past time. As I have said, the experts and politicians have no plan B to fall back on. If energy peaks,' '' and I think, and he believes, that energy has peaked or will imminently peak. As a matter of fact, he has a book coming out on the 15th. I hope it will be a best seller. It is called Twilight in the Desert. It is a book about Saudi Arabia. He believes, and there is pretty good evidence, that Saudi Arabia has now peaked in its oil production. The oil prince from Saudi Arabia was a week or two here visiting the President, you may remember. The President was very anxious to extract the promise that Saudi Arabia would pump more oil because $50 a barrel oil and $2.25 for a gallon of gasoline is not good for our economy. So it would be nice to have more oil which would bring the price down and would help our economy. You may have noted that the oil prince did not, I think he could not, promise the President that he would increase oil production.

'' 'It is past time. As I have said, the experts and politicians have no plan B to fall back on. If energy peaks, particularly while 5 of the world's 6.5 billion people have little or no use of modern energy, it will be a tremendous jolt to our economic well-being and to our health, greater than anyone could ever imagine.'

''When asked if there is a solution to the impending crisis, Simmons responded:

'' 'I don't think there is one. The solution is to pray. Under the best of circumstances, if all prayers are answered, there will be no crisis for maybe 2 years. After that, it's a certainty.' ''

I hope he is wrong. I hope that we in the United States and we in the world recognize the impending crisis as our demand for oil goes ever up and as the oil available to us peaks. Are we here? Are we here? Where are we? We are somewhere near there. There are a lot of experts who agree that we are somewhere near that. And then it starts down the other side. There is this big difference between what we would like to use and what is available to use, and I have already made the point that if we use all the oil for our routine economic functions that is available to us, there will be no energy to invest in the alternatives that we are going to have to have if we are going to transition from the age of oil to the age of renewables. Ultimately, we are going to have to make that transition.

Another expert, Lundberg. You have all heard of the Lundberg report on the price of gas. This is Jan Lundberg:

''The scenario I foresee is that market-based panic will, within a few days, drive prices up skyward.''

That has not happened. But who knows when it may happen, when there is suddenly a realization that we are not going to be able to increase the production rate of oil.

''And as supplies can no longer slake daily world demand of over 80 million barrels a day,'' it is now 84, ''the market will become paralyzed at prices too high for the wheels of commerce and even daily living in advanced societies. There may be an event that appears to trigger this final energy crash, but the overall cause will be the huge consumption on a finite planet.

''The trucks will no longer pull into Wal-Mart or Safeway or other food stores. The freighters bringing packaged techno-toys and whatnot from China will have no fuel. There will be fuel in many places, but hoarding and uncertainty will trigger outages, violence and chaos. For only a short time will the police and military be able to maintain order, if at all.''

I think we all know how thin the veneer of civilization is. Just let the lights go out in any of our major cities for a relatively short period of time and you get some idea of how thin the skin, the veneer of civilization is. I hope he is wrong. But after you read Matt Savinar's, and this is in Matt Savinar's article, after you read that whole article, you will find it difficult as I did, Mr. Speaker, to dismiss that with a wave of a hand, because if it is true that this is the reality, and it was for the United States, why should it not be true for the world? It was true for England. They peaked. Several countries have now peaked. It will be true for the world one day. Everybody admits that. The only difference of opinion is when it will occur. Many believe that we are now at peak or very close to peak oil. These predictions, I think, are made on the assumption that there will not be an adequate response.

One of the reasons I am here today, Mr. Speaker, is hoping that we can educate the American people, the people of the world, to this pending problem. By the way, another example of this tyranny of the urgent; in politics, it is very difficult to see beyond the next election. What political people tend to do are the things that will maximize their vote total at the next election, and talking about peak oil is probably not one of those things to make people feel good about their future. But I think that leadership has a responsibility. I want future generations when they look back on my generation to say, Gee, they did the right thing.

Another observer, Dr. Ted Trainer. By the way, we cannot see beyond the next election very far. Somebody in America, do you not think, Mr. Speaker, needs to be looking down the road?

□ 1730

Who is that going to be if not the elected representatives of the people? And I think the people out there across this great country, Mr. Speaker, are wise enough that they will accept the truth. We are an enormously innovative and creative country. I think that we can get by this. I think that we can have very high-quality lives using much less energy, and I think that we can create a brand-new economy around all of the entrepreneurship, the creativity, the inventions that are going to have to be there when we go from these fossil fuels to renewables.

Dr. Ted Trainer explains in a recent article on the thermodynamic limitations of biomass fuels: ''This is why I do not believe consumer-capitalist society can save itself. Not even its 'intellectual' classes or green leadership give any sign that this society has the wit or the will to even think about the basic situation we are in.''

I hope, Mr. Speaker, as a result of this evening and several prior times I have been here, and I will be here again. I am an old teacher, Mr. Speaker. I taught for 24 years, and I had an adage that I believed in in teaching, and that is that reputation is the soul of learning. And for 12 years I taught nursing students, and not one them failed the board. And I think that is because I had this philosophy that one never can spend too much time making sure that they understand something. So we are going to spend some time at this podium with the American people until we understand this.

''This is why I do not believe consumer-capitalist society can save itself. Not even its 'intellectual' classes or green leadership give any sign that this society has the wit or the will to even think about the basic situation we are in. As the above figures make clear, the situation cannot be solved without huge reduction in the volume of consumption.''

And that is what we have been talking about. If we are here, we would like to use oil at this level. We are going to have to use it at this level so that something remains, so that we can make the investments that we have got to make in renewables, or we are not going to get there.

In the February, 2005, issue of ''Discover'' magazine, Dr. Smalley gave the following diagnosis: ''There will be inflation as billions of people compete for insufficient resources. There will be famine. There will be terrorism and war.''

I hope not. But if we really permit ourselves to get to this point where we would like to have that much oil and there is only that much remaining and we recognize that if we somehow denied oil to some other parts of the world there would be more oil for us, who knows, who knows what we might do?

Mr. Speaker, I have been very fortunate. I have never been placed in a situation where I had to do this, but I am not sure what I would do if the life or the health of my wife and children were at risk. And I think we need to be very careful that we do the things we need to do to create a future environment in which we will not be tempted to do things that under other circumstances we would be embarrassed to even think about.

The chief economist at Morgan Stanley recently predicted that we have a 90 percent chance of facing ''economic Armageddon,'' while stating, ''I fear modern-day central banking is on the brink of systematic failure.'' When somebody like the chief economist at one of the world's biggest banks makes a statement like that, it is not a surprise. Somebody like investment banker and Bush consultant Matt Simmons has stated ''the only solution is to pray.''

There was a recent article in ''Time'' magazine. It was pretty near the center, kind of a center spread. It said: ''Why Gas Won't Get Cheaper,'' and they asked several questions, and then they answered the questions. And in broad terms, they were realistic in their answers. Let me go through some of these because I think it is very instructive. This is a major news medium which has now recognized that we may be getting near this point.

''Is the world running out of oil?'' And the answer is: ''No.'' We have got half of all the oil that was ever there. That is not what is running out. World's oil is not what is running out. What is running out is cheap oil, readily available, and high-quality oil. That is running out. We are not going to run out of oil for a long time, but we have run out or are about to run out of cheap oil, and we are about to run out of our ability to increase oil production.

So their next question is: ''So cheap oil is now just part of history?'' And their answer is: ''Correct.'' Then they go on to explain why.

I was talking to the gentleman from Michigan (Mr. DINGELL) the other day, the longest-serving Member of the House here on this floor, who has served here, I think, over 52 years, and what he told me was we will never see $50-a-barrel oil again. Now, it may dip. Today I think it may be a bit below $50. But what he meant was that oil is really not going down to $25, $30, $40 a barrel again; that it is going to go up from here. That is a recognition that we are probably at this point where demand is going to exceed supply, and when that happens, a little bit of difference, just a dip in supply, and we have seen what happens to prices.

''Will other sources of energy, like wind power or nuclear power, save the day?'' And then they make a very correct statement: ''Only if they replace oil consumption. Building nuclear plants or wind farms to produce electricity, for example, won't add a barrel of oil to the world's supply because we generally don't use oil for electricity.''

In a few moments, we are going to be talking about the real challenges we have in developing these alternatives. It is not impossible, but it is going to challenge the best of us. There is nothing like a challenge to sharpen the intellect or give one the satisfaction of achievement. And, boy, we had better sharpen a lot of intellects, and there is going to be a lot of satisfaction of achievement if we get by this without the rough ride that these authors in this report were making reference to.

''Why is demand for oil rising?'' And then they talk about China and India. We would like our economy to grow. As a matter of fact, if our economy does not grow at least 2 percent a year, we cannot service our debt. And the interest on our debt at today's low interest rates, pray they stay low, is almost as large as all of the money that we spend on the ordinary military. That does not include fighting the war: about $400 billion on the military, about $300 billion interest on the debt. So the interest only has to go up about 30 percent and we are spending as much interest on the debt as we are for our military. These are the big-ticket items.

Demand is rising. It will continue to rise. And if we have reached the peak, then there is going to be a big difference between what we would like to use and what there is available to use and who knows the geopolitical consequences of that? Who knows the stresses and strains in the world that will occur as a result of that and what this or that nation, including our own, by the way, might do?

Next question: ''Will technologies like hybrid cars, which run on a combination of gasoline and electricity, lower the price of oil?'' And they incorrectly answer: ''Eventually, yes.'' I do not think that the author of this understood that we are close to peak oil. No, it is not going to decrease the price of gas. If we have a massive effort at conservation and efficiency, what it is going to do is to permit us to continue to live well while we reduce our oil consumption below this level so we have something to invest in the alternatives.

''Will higher oil prices cripple the U.S. economy?'' And then he makes reference to another article written by Howard Kuntsler, and it is in a book. ''The Long Emergency,'' he calls it. And it goes something like this: ''Gasoline will soon get so expensive that most Americans simply won't be able to afford it. Suburbs, strip malls, interstate highways, the infrastructure of the modern U.S. economy just won't work anymore without cheap oil, and the U.S. will have to reinvent itself or risk falling into decay.'' That is a pretty dire prophecy.

What does ''Time'' magazine say about that? This is what they say. It is

very interesting what they say. That dire prophecy, though, is really all about timing. What they are really saying is if we do not take the right actions at the right time, that could very well happen. That is what they mean. This is all about timing. If we now aggressively pursue a program of conservation and efficiency and developing renewables, we will have a less rough ride through this crisis.

It is really quite lamentable that we have now blown 25 years. We very well knew we were on the downside of Hubbert's Peak in 1980. We should have then begun to make the investments in the alternatives that would make their use a realistic replacement for oil today. Today we have a very steep hill to climb.

I would like to put the next chart up which shows energy density. This gives us some idea of the challenges that we face here as we look to what is going to take the place of gas and oil. And this lists a number of things that we can burn and get energy from and how much energy there is. Domestic refuse, it does not have much. It is wet, and it has got a bunch of stuff in it that will not burn. But many places are burning it to get electricity, and the excess heat can now provide what is called ''district heating.'' By the way, we do not need to be getting rid of this heat in these big cooling towers and evaporating precious water. This heat ought to be used for heating buildings and so forth. They do that all over the rest of the world. We need to do more of that in this country.

Here is brown coal. That is a cheap coal that has a very low energy density. Straw, we are talking about burning biomass, pretty low energy density. If we burn enough straw and soybean stubble and so forth, we can get some energy from it, enough sawdust. Dung, in some countries they are burning dried dung to heat themselves. We used to do that out in the West. Cow chips, I think they called them. Buffalo chips. They picked them up and burned them there.

Wood, 16.2 gigajoules per ton. Black coal, better than wood, 50 percent better than wood. Coke, even better. Ethanol, notice that the ethanol that we would like to have more of because it replaces gasoline has nowhere near the energy density of gasoline because here is petrol down here at 46 and ethanol has less. But, nevertheless, we will talk in a few minutes about ethanol. It is still a really good idea.

Crude oil; diesel; petrol, automotive petrol; naptha; aviation fuel, higher octane, more energy; and natural gas, more hydrogen and still more energy.

I would like to give just a little anecdotal illustration of how important energy density is. One barrel, which is 42 gallons, of crude oil has the energy equivalent of 25,000 manhours of effort. From 8 years with IBM and writing a lot of proposals, I know that 2,060 is a man-year. So this is about 12 man-years of effort. What that means is that for $100, about $50 for the oil and maybe $50 to refine it and transport it to something a gallon for gasoline times 40 is about $100. For $100 one can now buy the energy equivalent worth of 12 men, or women, 12 people working for them all year long, and they bought that for $100. That is the challenge—we have to find something that cheap. And one will say $50 a barrel is not cheap, that $2.25 a gallon for gas is not cheap. But gas is still cheaper than water in the grocery store, is it not? The challenge is to find something with that kind of energy density.

Let me give another little illustration that people may be able to identify with because almost all of us drive cars. We drive a Prius, since 2000. A few weeks ago we had four people, and we were going down into West Virginia, up some mountains down there. We got lousy mileage going up the mountain. We have instantaneous mileage on the Prius so we could see what we were getting. And our mileage was only 20 miles per gallon. But I thought about that. One gallon of gasoline. Members know how big it is. A gallon of milk in the grocery store. One gallon of gasoline took four people and their luggage up a West Virginia mountain for 20 miles. And I thought, Mr. Speaker, how long would it take me to pull my Prius up 20 miles a West Virginia mountain? Now, obviously I cannot pull it up. I am not strong enough. But I can get it up there with some mechanical advantage like a winch that is built into the little thing we call a ''come-along'' and hook it to the guardrail or trees and by and by, if I did it in 90 days, and one can calculate out how far they would have to pull the car in a day, they would be pretty good if they got it up that 20 miles of mountain in 90 days.

□ 1745

That is the equivalent of the 20 years of effort from a single 20,000 man-hours of effort, about 24 years of man work that you get from one barrel of oil. So we have a big challenge in getting a replacement that has the energy density.

I would like to look at one possible replacement, and that is coal. We have a lot of coal. You hear 500 years. That is not true, but we have about 250 years of coal at present use rates, about 250 years at current use rates. That is no growth.

Remember those exponential curves that we looked at a while ago? Just 1.1 percent growth, and that comes down to 125 years. Two percent growth, the curves we have been looking at, we are down to under 100 years. But you cannot put a trunk load of coal in your car and go up the mountain. You have to convert it into something where you can use it, so it is going to take some energy to convert it. It has to be a liquid or gas, and you can make both.

When I was a little boy, the things we burned in the lamps, we had no electricity when I was a child, and we burned coal oil. I kept calling it coal oil for a long time. That was a big improvement over whale oil, by the way, which is what we had before coal oil.

It was called coal oil because we made it from coal. But then we were able to make kerosene from oil, and that was cheaper and easier to make, so nobody used coal oil any more. We may be back using coal oil. After conversion with a 2 percent growth it lasts just about 50 years.

We really need to use oil. It is dirty, big environmental challenges, got to get the sulfur out of it. But still there is energy there and we need to use that energy. But coal, we have to be careful now. These are resources that are finite. When they are gone, they are gone. So we need to plan a future in which we use coal and all of the other of these finite resources in the wisest possible way.

The next chart I want to look at something that is really very revealing. There is a lot of talk about ethanol and ethanol could replace gasoline. Well, yes and no.

Here we have petroleum. You start out with petroleum and you end up down here with 1 million Btus of gasoline at the refueling station. This is all the energy inputs you have to put into the several stages in going from recovery, to transportation, to the refining facility and then transporting it to where you pick it up at the station. So you get 1 million Btus out of the gasoline, but you had to use 1.23 million Btus of fossil fuel to get there, because you have got to expend energy all along this transportation and conversion route.

Now, if we look at ethanol, and we end up with the same thing, 1 million Btus of ethanol, it is going to be a bigger volume, by the way. You remember the energy density? Ethanol has a lower energy density than gasoline. But we made them equivalent here because we are talking about 1 million Btus, so we can compare them, we are comparing apples to apples here.

Now we start with solar energy, and that is going to make the corn grow that we plant, and these are all the things that go into corn. We are going to look at that in a moment. That is really interesting. Then we have to transport the corn, and we have to produce the ethanol, we have to transport the ethanol to where we are going to use it.

But notice that for every 1 million Btus of ethanol we have at the pump, we have put in about three-fourths of a million Btus of fossil fuel to get there. Obviously you would not have to use the fossil fuel, you could use corn energy, ethanol energy, but that is going to further depreciate your yield here, is it not? Tonight, 20 percent of the world will go to bed hungry, and so our limits to transmute food into energy are obviously going to be limited if we would like to continue to feed the world.

What is on the bottom here in this little pie is really interesting. This is the energy that goes in to producing a bushel of corn. It could be a bushel of

soybeans or a bushel of wheat. With soybeans, by the way, you need less nitrogen here because they are a legume and they have little nodules on their roots and they get nitrogen from the atmosphere. But this is corn. It is going to be typical of wheat and rice.

Nearly half of all the energy that goes into producing corn comes from nitrogen, and nitrogen today comes almost exclusively from natural gas.

Mr. Speaker, before we knew how to get nitrogen from natural gas, we only got it in three places, nitrogen fertilizer. We got it from barnyard manures, and they were pretty limited. The farmer might have a good garden if he concentrated his manures on the garden. But for his fields he had to rely on what we called rotation farming. You planted grass and legumes, the legumes fixed nitrogen and put it in the soil, and after several years you plowed up the sod and you planted corn for one year. That sucked most of the nitrogen out of the ground, so you were back in grass and legumes again until you stored enough nitrogen to get another corn crop.

Today we use natural gas to get nitrogen and without natural gas to get nitrogen, I will let you, Mr. Speaker, draw your own conclusions as to how difficult it would be to feed the world, because you see the enormous amount of energy that comes in through natural gas and nitrogen.

Then there is hauling, that is oil; purchased water, you probably pump that with maybe some oil and gas for energy. Chemicals. Many of the chemicals that are used in farming come from a petroleum base.

By the way, there is something we have not talked about, Mr. Speaker, very important. There is an enormous petrochemical industry out there. In a very real sense, oil, and particularly gas, are too good to burn. We live in a plastic world, and all of these things, lipstick, all of these things, come from oil. There are other sources, but they are not as convenient and nowhere near as cheap. So many of the chemicals come from oil.

Custom work. His tractor was built with oil. It ran on oil. There is a lot of oil there. Natural gas, that is all fossil fuels. Electricity, that could have been produced with oil or gas. Liquid propane gas to dry the corn probably. Then gasoline itself, diesel.

We are not even free of the need for oil when you come to lime and phosphate and potash, these nutrients you have to put on the soil in addition to your nitrogen to grow the crop, because we had to mine those, and haul those. We needed energy for all that, and a great deal of that energy came from oil.

So you can see how much our food, in a very real sense, Mr. Speaker, the food you eat is oil. And in our country, just a word about agriculture in our country. We brag we have the most efficient agriculture in the world. That is because we spend fewer man-hours to produce a ton of this or a bushel of that than perhaps any other country in the world. But we do that because we have these very large tractors that burn a lot of oil.

There is a trade-off here. The fewer man-hours you use, the more energy you are probably going to have to use. So although we have the most efficient agriculture in the world in terms of man-hours of effort needed to produce a crop, we may have close to the most inefficient agriculture in the world in terms of energy in and energy out.

As a matter of fact, the food you eat, which, by the way, each helping traveled an average of 1,500 miles before it got to your plate this evening, the food you eat is quite literally energy because of all of the energy that it took to put in to that food.

The next chart looks at some of the alternatives. We need to come back, Mr. Speaker, and spend more time, because we really need to spend a lot of time on this chart, because if these dire predictions that we read earlier are not going to come true, we have got to pay attention to this chart.

There are finite resources. We mentioned the tar sands and the oil shales. A lot of oil there that is not very good, very expensive to get out. You may spend almost as much energy getting it out as you get out of it, so there is not a big energy profit ratio there.

Then coal, we have talked about coal.

Nuclear, we really need to look at nuclear. There are three forms of nuclear. Fusion is one that will get us home free. I do not think that is very probable. In spite of that, I support all the money, about $300 million a year I think we spend in that sector. Because if we really are able to get fusion, energy, and that is what the sun does, by the way, and most of the energy we use comes from the sun. All of the gas, all of the oil, all of the coal if you believe in a biogenic source, of that, and most people do, came from the sun, which shone a while ago.

Hydropower comes from the sun. The sun lifts water, it falls on the mountain and runs through the turbine and produces power. Direct solar, the wind blows because of differential heating. Ocean energy, differential temperatures in the ocean. Of course, you have some ocean energy from the tides. The only potential source of energy free from the sun is the moon; very diffuse, hard to harvest that.

Fission. Two kinds of fission. We have light water reactors, 20 percent of our electricity. The French produce about 70 to 80 percent of their electricity with nuclear and they have breeder reactors.

At another time, Mr. Speaker, we need to talk about breeder reactors. If we are going to get serious about nuclear, we are going to have to go to breeder reactors, because there is not much fissionable uranium in the world. If we all need to go to nuclear it will run out quicker than coal, quicker than oil, quicker than gas. So we need to talk about breeder reactors.

Well, we will come to the floor another hour and spend most of that time talking about these renewable sources. I hope to have with me then, we had five people here last evening, this is a getaway day, they have gone home. The next time it will not be, and we will have a number of people here, and we will have a good time talking about all of these renewables, the challenges and the opportunities there.

CORRECTION TO THE CONGRESSIONAL RECORD OF MAY 11, 2005, AT PAGE H3197

By Mr. HENSARLING (for himself, Mr. RYAN of Wisconsin, Mr. CHOCOLA, Mr. COX, Mr. AKIN, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CANNON, Mr. CARTER, Mr. CHABOT, Mr. COLE of Oklahoma, Mrs. CUBIN, Mr. MARIO DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. FEENEY, Mr. FLAKE, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GUTKNECHT, Ms. HART, Mr. HERGER, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. JINDAL, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. KLINE, Mr. MACK, Mr. MCHENRY, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. OTTER, Mr. PENCE, Mr. RADANOVICH, Mr. ROHRABACHER, Mr. ROYCE, Mr. RYUN of Kansas, Mr. SESSIONS, Mr. SHADEGG, Mr. SOUDER, Mr. TANCREDO, Mr. TURNER, Mr. WESTMORELAND, Mr. HAYWORTH, and Mr. BACHUS):

H.R. 2290. A bill to reform Federal budget procedures, to impose spending safeguards, to combat waste, fraud, and abuse, to account for accurate Government agency costs, and for other purposes; to the Committee on the Budget, for a period ending not later than July 11, 2005, and in addition to the Committees on Rules, Ways and Means, Appropriations, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BERMAN (at the request of Ms. PELOSI) for today on account of official business.

Ms. SOLIS (at the request of Ms. PELOSI) for today on account of official business.

Mr. HONDA (at the request of Ms. PELOSI) for today after 1:00 p.m.

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of official business.

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 Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. GILCHREST) to revise and extend their remarks and include extraneous material:)

Mr. DENT, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, May 19.

Ms. FOXX, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MCHENRY, for 5 minutes, May 17 and 18.

ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until Monday, May 16, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1967. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the 2004 Annual Report of the Appraisal Subcommittee, pursuant to 12 U.S.C. 3332; to the Committee on Financial Services.

1968. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Wireless Operations in the 3650-3700 MHz Band [ET Docket No. 04-151] Rules for Wireless Broadband Services in the 3650-3700 MHz Band [WT Docket No. 05-96] Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3GHz Band [ET Docket No. 02-380] Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band [ET Docket No. 98-237] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1969. A letter from the Legal Advisor, WTB Broadband Division, Federal Communications Commission, transmitting the Commission's final rule — Allocations and Service Rules for the 71-76 GHz, 81-86 GHz, and 92-95 GHz Bands [WT Docket No. 02-146] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1970. A letter from the Deputy Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Cognitive Radio Technologies and Software Defined Radios [ET Docket No. 03-108; FCC 05-57] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1971. A letter from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004; Procedural Rules — received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1972. A letter from the Acting Bureau Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule — Truth-in-Billing Format [CC Docket No. 98-170] National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing [CG Docket No. 04-208] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1973. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Lahaina and Waianae, Hawaii) [MB Docket No. 02-387; RM-10623) received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1974. A letter from the Assistant Bureau Chief for Management, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — 2000 Biennial Regulatory Review — Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations [IB Docket No. 00-248] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1975. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Parts 2 and 90 of the Commission's Rules to Provide for Narrowband Private Land Mobile Radio Channels in the 150.05-150.8 MHz, and 406.1-420 MHz Bands that are Allocated for Federal Government Use [ET Docket No. 04-243] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1976. A letter from the Office of the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Regulations Governing the Conduct of Open Seasons for Alaska Natural Gas Transportation Projects [Docket No. RM05-1-000] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1977. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1978. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1979. A letter from the Architect of the Capitol, transmitting a report discussing the AOC's activities to improve worker safety during the fourth quarter of FY04, pursuant to the directives issued in the 107th Congress First Session, House of Representatives Report Number 107-169; to the Committee on House Administration.

1980. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting a copy of the Commission's ''Report to the Congress: Medicare Payment Policy''; jointly to the Committees on Ways and Means and 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. LEWIS of California: Committee on Appropriations. Report on the Suballocation of Budget Allocations for Fiscal Year 2006. (Rept. 109–78). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROYCE (for himself, Mr. KANJORSKI, Mr. LATOURETTE, Mrs. MALONEY, Mr. TANCREDO, Mr. SANDERS, Mr. BOEHLERT, Mr. GUTIERREZ, Mr. BURTON of Indiana, Mr. CASE, Mr. BROWN of South Carolina, Ms. JACKSON-LEE of Texas, Mr. PAUL, Mr. CHABOT, Mr. CANNON, Mr. CUNNINGHAM, Mr. KUHL of New York, and Mr. SHERMAN):

H.R. 2317. A bill to modernize credit union net worth standards, advance credit union efforts to promote economic growth, and modify and ease credit union regulatory standards and burdens, and for other purposes; to the Committee on Financial Services.

By Mr. GREEN of Wisconsin:

H.R. 2318. A bill to amend title 18, United States Code, to provide increased penalties for sexual offenses against children, and for other purposes; to the Committee on the Judiciary.

By Mr. WELLER:

H.R. 2319. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to expense property eligible for bonus depreciation; to the Committee on Ways and Means.

By Mr. WELLER:

H.R. 2320. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 50-percent bonus depreciation added by the Jobs and Growth Tax Relief Reconciliation Act of 2003; to the Committee on Ways and Means.

By Mr. DOGGETT (for himself, Mr. GEORGE MILLER of California, Mr. ABERCROMBIE, Mr. BACA, Mr. BAIRD, Mr. BECERRA, Mr. BISHOP of New York, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Ms. CARSON, Mr. CONYERS, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Ms. DELAURO, Mr. EVANS, Mr. FATTAH, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HONDA, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. KAPTUR, Mr. KILDEE, Ms. KILPATRICK of Michigan, Ms. LEE, Mrs. MCCARTHY, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Ms. MILLENDER-MCDONALD, Mr. NADLER, Mr. OWENS, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Ms. SOLIS, Mr. STARK, Mr. STRICKLAND, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Mr. VAN HOLLEN, Ms. WATSON, Mr. WAXMAN, Ms. WOOLSEY, and Mr. WU):

H.R. 2321. A bill to amend titles I and IV of the Employee Retirement Income Security Act of 1974 to improve disclosure of the funding status of pension plans; to the Committee on Education and the Workforce.

By Mr. DOGGETT (for himself, Mr. BACA, Mr. BECERRA, Mr. CARDOZA,

Mr. CUELLAR, Mr. CULBERSON, Mr. EDWARDS, Mr. GONZALEZ, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HALL, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCCAUL of Texas, Mr. MENENDEZ, Mrs. NAPOLITANO, Mr. ORTIZ, Mr. PASTOR, Mr. PAUL, Mr. PETERSON of Minnesota, Mr. POMEROY, Mr. REYES, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SERRANO, and Ms. SOLIS):

H.R. 2322. A bill to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the ''Kika de la Garza Federal Building''; to the Committee on Transportation and Infrastructure.

By Mr. FARR (for himself, Mrs. CAPPS, Ms. WOOLSEY, Mr. LANTOS, Ms. ESHOO, Mr. BERMAN, Mr. CASE, Mr. HINCHEY, Mr. MCDERMOTT, Mr. GEORGE MILLER of California, Mr. OWENS, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. SHERMAN, Mrs. TAUSCHER, Mr. VAN HOLLEN, Mr. GRIJALVA, Mr. FOLEY, Mr. ABERCROMBIE, Mr. BLUMENAUER, Mr. SHAYS, and Mr. ISSA):

H.R. 2323. A bill to establish a program of research and other activities to provide for the recovery of the southern sea otter; to the Committee on Resources.

By Mr. ANDREWS:

H.R. 2324. A bill to amend title XVIII of the Social Security Act to extend coverage of orthopedic shoes under part B of the Medicare Program to individuals without diabetes who medically require them; to the Committee on Energy and Commerce, and in addition to the Committee on 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. KIND (for himself, Mr. DAVIS of Florida, Mr. ETHERIDGE, Mrs. MCCARTHY, Mr. CHANDLER, Mr. SMITH of Washington, Mr. HOLT, Mrs. JONES of Ohio, Mr. PRICE of North Carolina, Mrs. DAVIS of California, Mrs. TAUSCHER, Mr. CROWLEY, Mr. GONZALEZ, Mr. DAVIS of Alabama, Mr. CASE, Ms. SCHWARTZ of Pennsylvania, and Ms. HERSETH):

H.R. 2325. A bill to direct the National Science Foundation to establish a competitive grant program for institutions of higher education to enhance education and job training opportunities in mathematics, science, engineering, and technology; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina (for himself, Mr. BUTTERFIELD, Mr. MILLER of North Carolina, Mr. PRICE of North Carolina, Mr. COBLE, Ms. FOXX, Mr. MCINTYRE, and Mr. MCHENRY):

H.R. 2326. A bill to designate the facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, as the ''Floyd Lupton Post Office''; to the Committee on Government Reform.

By Mr. GEORGE MILLER of California (for himself and Ms. SCHAKOWSKY):

H.R. 2327. A bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings; to the Committee on Education and the Workforce.

By Mr. FOSSELLA (for himself, Mr. STEARNS, Mr. BAKER, Mr. SHAW, Mr. PALLONE, Mr. TOWNS, Mrs. KELLY, and Mr. SESSIONS):

H.R. 2328. A bill to establish a grant program to provide follow-up treatment for children identified to have a vision disorder; to the Committee on Energy and Commerce.

By Mr. KIRK:

H.R. 2329. A bill to permit eligibility in certain circumstances for an officer or employee of a foreign government to receive a reward under the Department of State Rewards Program; to the Committee on International Relations.

By Mr. KOLBE (for himself, Mr. FLAKE, Mr. GUTIERREZ, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mrs. NAPOLITANO, and Mr. PASTOR):

H.R. 2330. A bill to improve border security and immigration; to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, International Relations, Energy and Commerce, and 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 Mr. WAXMAN (for himself, Ms. PELOSI, Mr. CLAY, Mr. CONYERS, Mr. CUMMINGS, Mr. DOGGETT, Mr. KUCINICH, Mr. LANTOS, Mr. LYNCH, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mrs. MALONEY, Ms. NORTON, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Mr. STARK, Mr. VAN HOLLEN, and Ms. WOOLSEY):

H.R. 2331. A bill to restore and strengthen the laws that provide for an open and transparent Federal Government; to the Committee on Government Reform, and in addition to the Committee on Homeland Security, 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. BEAUPREZ (for himself, Mr. UDALL of Colorado, Mr. HEFLEY, Ms. BALDWIN, Mr. KIND, and Mr. UPTON):

H.R. 2332. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Resources.

By Mr. BURTON of Indiana (for himself, Mr. FRANK of Massachusetts, Mr. DELAHUNT, Mr. HINCHEY, and Mr. STARK):

H.R. 2333. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue Northwest in the District of Columbia as the ''Federal Bureau of Investigation Building''; to the Committee on Transportation and Infrastructure.

By Mrs. CAPPS:

H.R. 2334. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities for the GREAT project to reclaim, reuse, and treat impaired waters water in the area of Oxnard, California; to the Committee on Resources.

By Mr. COOPER (for himself, Mr. WAMP, Ms. JACKSON-LEE of Texas, Mr. ROSS, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. MATHESON, Mr. CASE, Mr. FORD, Mr. PAYNE, Mr. ETHERIDGE, Mr. KIND, Ms. HOOLEY, Mr. DAVIS of Tennessee, Mr. REICHERT, and Mr. MOORE of Kansas):

H.R. 2335. A bill to amend the Public Health Service Act to provide for demonstration projects for the purpose of providing comprehensive services with respect to the problems of children who have been removed from environments in which methamphetamine is unlawfully manufactured, distributed, or dispensed; to the Committee on Energy and Commerce.

By Mr. COOPER:

H.R. 2336. A bill to extend the temporary suspension of duty on DMSIP; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself and Mr. CANNON):

H.R. 2337. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes; to the Committee on Resources.

By Mrs. CUBIN:

H.R. 2338. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the President to designate a Small State Advocate in the Federal Emergency Management Agency; to the Committee on Transportation and Infrastructure.

By Mrs. CUBIN:

H.R. 2339. A bill to amend title II of the Social Security Act to provide for Congressional oversight and approval of totalization agreements; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mr. LANTOS, Mr. TIERNEY, Ms. BERKLEY, Mr. CAPUANO, Ms. HARMAN, Mr. LEWIS of Georgia, Mr. WEINER, Ms. SLAUGHTER, Ms. LINDA T. SÁNCHEZ of California, Ms. MCCOLLUM of Minnesota, Mr. GILLMOR, Mr. KENNEDY of Rhode Island, Mr. SANDERS, Mr. KUCINICH, Ms. LEE, Mr. DOGGETT, Mr. FRANK of Massachusetts, Mr. BOUCHER, Mr. HOLDEN, Mr. POMEROY, Mr. RUSH, Mr. MCDERMOTT, Mr. CROWLEY, Mr. ABERCROMBIE, Ms. WATSON, and Mr. PLATTS):

H.R. 2340. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Education and the Workforce.

By Mr. DOGGETT:

H.R. 2341. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the City of Austin Water and Wastewater Utility, Texas; to the Committee on Resources.

By Mr. FOSSELLA:

H.R. 2342. A bill to amend title 46, United States Code, to treat as a passenger vessel any vessel having berth or stateroom accommodations for more than 399 passengers, to require that such a vessel be equipped with a voyage data recorder, and to ensure reliable medical testing of vessel pilots, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GENE GREEN of Texas:

H.R. 2343. A bill to amend title II of the Social Security Act to eliminate the 24-month waiting period for disabled individuals to become eligible for Medicare benefits; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and 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. HOLDEN (for himself, Mr. EVANS, Mr. EMANUEL, Mr. FOLEY,

Mrs. DAVIS of California, Mr. SANDERS, Mr. GRIJALVA, Mr. TOWNS, Mr. BISHOP of Georgia, Mr. OWENS, Mr. REYES, and Mrs. MCCARTHY):

H.R. 2344. A bill to amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date; to the Committee on Veterans' Affairs.

By Mr. ISRAEL:

H.R. 2345. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase criminal penalties for the sale or trade of prescription drugs knowingly caused to be adulterated or misbranded, to modify requirements for maintaining records of the chain-of-custody of prescription drugs, to establish recall authority regarding drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JINDAL:

H.R. 2346. A bill to designate the facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, as the ''John J. Hainkel Post Office Building''; to the Committee on Government Reform.

By Mr. KING of New York (for himself and Mrs. MCCARTHY):

H.R. 2347. A bill to revitalize suburban communities, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on 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. LATHAM (for himself, Mr. KUHL of New York, Mr. WOLF, Mr. CASE, Mr. KENNEDY of Minnesota, and Mr. MCCAUL of Texas):

H.R. 2348. A bill to amend the Controlled Substances Act to provide civil liability for illegal manufacturers and distributors of controlled substances for the harm caused by the use of those controlled substances; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOORE of Wisconsin:

H.R. 2349. A bill to authorize the Secretary of Health and Human Services to make grants to improve access to dependable, affordable automobiles by low-income families; to the Committee on Ways and Means.

By Mr. MORAN of Kansas (for himself, Mr. HINOJOSA, Mr. MCHUGH, Mr. BERRY, Mr. BISHOP of Georgia, Mr. SHIMKUS, Mr. SANDERS, Mr. ROSS, Mr. KIND, Mr. OTTER, Mr. PICKERING, Mr. PAUL, Mr. OSBORNE, Mr. MCINTYRE, Mr. OBERSTAR, Mr. DICKS, and Mr. RENZI):

H.R. 2350. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; 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. OBERSTAR (for himself, Ms. CORRINE BROWN of Florida, Mr. CUMMINGS, Mr. BLUMENAUER, Mr. MENENDEZ, Mr. NADLER, Ms. NORTON, Mr. BISHOP of New York, Ms. MILLENDER-MCDONALD, Mr. WEINER, Mr. HOLDEN, Mr. CAPUANO, Mr. RAHALL, and Ms. CARSON):

H.R. 2351. A bill to provide for the safety and security of United States railroads, passengers, workers, and communities, and to establish an assistance program for families of passengers involved in rail accidents; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, 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. PAUL:

H.R. 2352. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that health claims for foods and dietary supplements include accurate statements of the curative, mitigation, treatment, and prevention effects of nutrients on disease or health-related conditions, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROGERS of Michigan (for himself, Mr. EHLERS, Mr. HOEKSTRA, Mr. WOLF, Mr. BOUSTANY, Mrs. JOHNSON of Connecticut, Mr. DENT, Mr. HERGER, Mr. SHAYS, and Mr. PITTS):

H.R. 2353. A bill to make technical corrections to the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Resources.

By Mr. SENSENBRENNER (for himself and Mr. FRANK of Massachusetts):

H.R. 2354. A bill to prohibit the Federal Communications Commission from requiring digital television tuners in television receivers; to the Committee on Energy and Commerce.

By Mr. SHADEGG (for himself, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. CANNON, Mr. CARTER, Mr. COLE of Oklahoma, Mr. COX, Mrs. CUBIN, Mr. FEENEY, Mr. FLAKE, Mr. FRANKS of Arizona, Mr. GUTKNECHT, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. ISTOOK, Mr. JONES of North Carolina, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. LINDER, Mr. MCHENRY, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. OTTER, Mr. PAUL, Mr. PENCE, Mr. PRICE of Georgia, Mr. RADANOVICH, Mr. RENZI, Mr. ROHRABACHER, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SOUDER, Mr. WAMP, Mr. WELDON of Florida, Mr. WICKER, Mr. WILSON of South Carolina, and Mr. GREEN of Wisconsin):

H.R. 2355. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Energy and Commerce.

By Mr. SHAW (for himself and Mr. CARDIN):

H.R. 2356. A bill to amend title XVIII of the Social Security Act to reform the Medicare physician payment update system through repeal of the sustainable growth rate (SGR) payment update system; to the Committee on Energy and Commerce, and in addition to the Committee on 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. SHUSTER (for himself, Mr. HOLDEN, Ms. HART, and Mr. SMITH of Texas):

H.R. 2357. A bill to protect American workers and responders by ensuring the continued commercial availability of respirators and to establish rules governing product liability actions against manufacturers and sellers of respirators; to the Committee on the Judiciary, 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. UDALL of Colorado (for himself, Mrs. JO ANN DAVIS of Virginia, Mr. GORDON, Mr. KUCINICH, Mr. SCOTT of Virginia, and Mr. LARSON of Connecticut):

H.R. 2358. A bill to enable the United States to maintain its leadership in aeronautics and aviation, improve its quality of life, protect the environment, support economic growth, and promote the security of the Nation by instituting an initiative to develop technologies that will enable future aircraft with significantly lower noise, emissions, and fuel consumption, to reinvigorate basic and applied research in aeronautics and aviation, and for other purposes; to the Committee on Science.

By Ms. WATSON (for herself, Mr. HINCHEY, Mr. SANDERS, and Ms. SLAUGHTER):

H.R. 2359. A bill to establish minimum public interest requirements for multi-cast digital television channels; to the Committee on Energy and Commerce.

By Ms. ZOE LOFGREN of California:

H.J. Res. 49. A joint resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to serve as Members of the House of Representatives when, in a national emergency, a significant number of Members are unable to serve due to death, resignation, or incapacity; to the Committee on the Judiciary.

By Ms. ZOE LOFGREN of California (for herself, Ms. WOOLSEY, Mr. STARK, Mr. MCDERMOTT, and Mr. SERRANO):

H.J. Res. 50. A joint resolution proposing an amendment to the Constitution of the United States to abolish the Electoral College and to provide for the direct election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. ISRAEL:

H. Con. Res. 151. Concurrent resolution urging the Commandant of the Coast Guard to name an appropriate Coast Guard vessel after Coast Guard Petty Officer Third Class Nathan Bruckenthal; to the Committee on Transportation and Infrastructure.

By Mr. BAIRD:

H. Res. 275. A resolution recognizing and honoring the work of Southwest Washington Independent Forward Thrust and its members; to the Committee on Government Reform.

By Mr. PLATTS:

H. Res. 276. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Government Reform.

By Mr. WICKER (for himself, Mr. BARRETT of South Carolina, Mr. LINDER, Mr. GOHMERT, Mr. CARTER, Mrs. CUBIN, Ms. FOXX, Mr. BARTLETT of Maryland, Mr. CHABOT, Mr. GUTKNECHT, Mr. PITTS, Mr. GARRETT of New Jersey, Mr. AKIN, Mr. MARIO DIAZ-BALART of Florida, Mr. ISTOOK, Mr. PENCE, Mr. SAM JOHNSON of Texas, Mr. CANTOR, Mr. FEENEY, Mr. SHADEGG, Mr. MCHENRY, Mr. MARCHANT, Mr. TIAHRT, Mrs. MYRICK, Mr. GOODE, Mr. DOOLITTLE, Mr. GOODLATTE, Mr. COLE of Oklahoma, Mr. ROGERS of Michigan, Mr. BLUNT, Mr. SESSIONS, Mrs. DRAKE, Mr. KING of Iowa, Mr. DAVIS of Kentucky, Mr. NEUGEBAUER, Mr. MILLER of Florida, Mr. TAYLOR of Mississippi, Mr. BISHOP of Utah, Ms. GINNY BROWN-WAITE of Florida, Mr. NEY, Mr. WAMP, Mr. BURTON of Indiana, Mr.

ADERHOLT, Mr. JONES of North Carolina, Mr. RENZI, Mr. POMBO, Mr. DUNCAN, Mr. CULBERSON, Mr. RYUN of Kansas, and Mr. BUYER):

H. Res. 277. A resolution expressing the sense of the House of Representatives that due to the allegations of fraud, mismanagement, and abuse within the United Nations oil-for-food program, the growing record of human rights abuses by United Nations personnel in the Democratic Republic of the Congo, and the lack of action by the United Nations in response to the genocide in the Darfur region of the Sudan, Kofi Annan should resign from the position of Secretary General of the United Nations to help restore confidence in the organization; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. MOLLOHAN.

H.R. 22: Ms. ROS-LEHTINEN and Mr. GREEN of Wisconsin.

H.R. 66: Mr. HOEKSTRA.

H.R. 94: Mr. BOOZMAN.

H.R. 95: Mr. BURTON of Indiana, Mr. COSTA, Mr. BOSWELL, and Mr. TANCREDO.

H.R. 98: Mr. BARRETT of South Carolina.

H.R. 111: Mrs. MILLER of Michigan, Mr. STEARNS, Miss MCMORRIS, Mr. SHUSTER, Mr. LEWIS of Georgia, and Mr. DOOLITTLE.

H.R. 123: Mr. FILNER.

H.R. 136: Mr. DEAL of Georgia.

H.R. 181: Mr. BILIRAKIS.

H.R. 208: Ms. LEE.

H.R. 282: Mr. BEAUPREZ, Mr. REYES, Mr. JACKSON of Illinois, Mr. ROGERS of Alabama, Mr. GRIJALVA, Mr. HIGGINS, Mr. MEEKS of New York, Mr. FRANKS of Arizona, Mr. KILDEE, Mr. GINGREY, and Mr. HOYER.

H.R. 303: Mr. MANZULLO.

H.R. 311: Mr. SANDERS and Mr. LEVIN.

H.R. 312: Ms. DELAURO, Mr. ENGEL, Mr. SNYDER, Mr. FILNER, Ms. SCHAKOWSKY, Mr. SPRATT, Mr. GILCHREST, Mr. DUNCAN, Mr. BROWN of Ohio, Mr. EVANS, Mr. BURGESS, Mr. MCNULTY, Mr. UPTON, and Mr. BRADY of Pennsylvania.

H.R. 314: Mr. COSTA.

H.R. 369: Mr. UDALL of Colorado.

H.R. 371: Mr. SESSIONS and Ms. BERKLEY.

H.R. 376: Mr. HASTINGS of Florida.

H.R. 438: Ms. HARMAN and Ms. LINDA T. SÁNCHEZ of California.

H.R. 444: Mr. CUMMINGS and Ms. WOOLSEY.

H.R. 467: Mr. MEEKS of New York.

H.R. 500: Mr. CHABOT.

H.R. 503: Mr. WELDON of Pennyslvania and Mr. MCGOVERN.

H.R. 515: Mr. WYNN.

H.R. 517: Mr. FILNER, Mr. GUTKNECHT, Mr. ROGERS of Alabama, Mr. PICKERING, Mr. SALAZAR, and Mr. INSLEE.

H.R. 558: Ms. BALDWIN.

H.R. 602: Ms. HERSETH.

H.R. 615: Mrs. CAPITO, Mr. LATOURETTE, and Mr. JONES of North Carolina.

H.R. 669: Mr. MORAN of Virginia and Mr. PAYNE.

H.R. 676: Mr. SERRANO.

H.R. 700: Mr. WEXLER.

H.R. 731: Mr. MICHAUD.

H.R. 793: Mr. SWEENEY.

H.R. 799: Mr. VAN HOLLEN.

H.R. 800: Mr. ROHRABACHER and Mr. SHIMKUS.

H.R. 809: Mr. UPTON, Mr. SIMMONS, Mr. PENCE, Mr. BISHOP of Utah, Mr. HASTINGS of Washington, Mr. YOUNG of Alaska, Mr. BARTLETT of Maryland, Mr. FRANKS of Arizona, Mr. ALEXANDER, Mr. SHIMKUS, Mr. SIMPSON, Mr. OXLEY, and Mr. HAYES.

H.R. 817: Mr. FILNER, Mr. GEORGE MILLER of California, Mr. ENGEL, Mr. SMITH of New Jersey, Mr. FERGUSON, Mr. TANCREDO, Mr. SHAYS, Mr. WEXLER, Mr. HOSTETTLER, Mr. UPTON, Mr. DELAHUNT, Mr. SMITH of Texas, Mr. MCGOVERN, Mr. PENCE, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 869: Mr. TIERNEY.

H.R. 870: Ms. JACKSON-LEE of Texas.

H.R. 900: Ms. ROYBAL-ALLARD.

H.R. 963: Mr. MOORE of Kansas.

H.R. 985: Mr. SOUDER.

H.R. 986: Mr. TURNER.

H.R. 994: Mr. ABERCROMBIE, Mr. FOSSELLA, Ms. ROS-LEHTINEN, Mr. GARRETT of New Jersey, Ms. ZOE LOFGREN of California, Mr. WALSH, Mr. DINGELL, Mrs. MCCARTHY, Mr. BRADLEY of New Hampshire, Mr. CARNAHAN, Mr. LARSEN of Washington, Mr. BOEHLERT, Mr. MEEK of Florida, Mr. BACA, Mr. LUCAS, and Mr. JENKINS.

H.R. 997: Mrs. MUSGRAVE, Mr. ROGERS of Kentucky, Ms. HART, Mr. SODREL, Mr. SOUDER, and Mr. OXLEY.

H.R. 1100: Mr. KING of Iowa and Mr. SULLIVAN.

H.R. 1105: Mr. STUPAK.

H.R. 1106: Ms. SCHAKOWSKY.

H.R. 1120: Mr. SIMMONS, Mr. MENENDEZ, and Mr. GORDON.

H.R. 1125: Mr. CAPUANO, and Mr. OWENS.

H.R. 1150: Mr. SOUDER.

H.R. 1167: Mr. KUHL of New York, Mrs. JO ANN DAVIS of Virginia, and Mr. MANZULLO.

H.R. 1182: Mr. WEINER, Mr. KUCINICH, and Mr. UDALL of New Mexico.

H.R. 1218: Mr. MENENDEZ and Mr. HOLT.

H.R. 1243: Mr. BOOZMAN, Mr. MCINTYRE, Mr. JOHNSON of Illinois, Mrs. EMERSON, and Mr. YOUNG of Alaska.

H.R. 1245: Mr. BLUNT, Mr. SHIMKUS, Mr. FITZPATRICK of Pennsylvania, Mr. FRANKS of Arizona, Mr. ROYCE, Mr. PENCE, Mrs. CAPITO, Mr. CONAWAY, Mr. LARSON of Connecticut, Mr. KELLER, Mr. ROGERS of Michigan, Mr. RADANOVICH, Mr. GARY G. MILLER of California, Mr. BARTLETT of Maryland, Mr. FARR, Mr. HYDE, Ms. LINDA T. SÁNCHEZ of California, Mr. GOHMERT, and Mr. HAYES.

H.R. 1288: Mr. JOHNSON of Illinois, Mr. MCCOTTER, Mr. BRADY of Texas, Mr. CUELLAR, Mr. PLATTS, Mr. BOREN, and Mr. STRICKLAND.

H.R. 1308: Mr. SHUSTER, Mr. WEXLER, Mr. UPTON, and Mrs. MCCARTHY.

H.R. 1312: Ms. CARSON, Mr. CONYERS, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Mr. STARK, and Mr. VAN HOLLEN.

H.R. 1333: Mr. UDALL of Colorado, Mr. RAMSTAD, Mr. BISHOP of Georgia, Mr. KING of Iowa, Mr. TOM DAVIS of Virginia, Mr. FILNER, Mr. DUNCAN, Mr. KENNEDY of Rhode Island, Mr. TIERNEY, Mr. SODREL, Mr. CONAWAY, Ms. HERSETH, Mr. PASTOR, Mr. MACK, and Mr. SABO.

H.R. 1335: Mr. ORTIZ and Ms. CARSON.

H.R. 1352: Mr. DUNCAN.

H.R. 1355: Mr. ROYCE, Mr. ENGLISH of Pennsylvania, and Mrs. JO ANN DAVIS of Virginia.

H.R. 1358: Mr. PRICE of North Carolina, Mr. NORWOOD, and Mr. FOLEY.

H.R. 1367: Mr. GRIJALVA.

H.R. 1371: Ms. GINNY BROWN-WAITE of Florida.

H.R. 1376: Mrs. DAVIS of California, Ms. MATSUI, Mr. GERLACH, Mr. KILDEE, Mr. DENT, Mr. CAPUANO, and Mr. GEORGE MILLER of California.

H.R. 1378: Mr. BOREN.

H.R. 1402: Mr. BOEHLERT, Mr. CAPUANO, Mr. PRICE of North Carolina, Ms. MCCOLLUM of Minnesota, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. KILDEE, and Mr. WEINER.

H.R. 1415: Mr. ENGEL and Mr. STARK.

H.R. 1447: Mr. HINCHEY and Ms. HERSETH.

H.R. 1461: Mr. MCHENRY, Ms. ROS-LEHTINEN, and Mr. BLUNT.

H.R. 1480: Mr. SCHIFF, and Mr. KENNEDY of Rhode Island.

H.R. 1492: Mr. BROWN of Ohio, Mr. RUPPERSBERGER, Mrs. BLACKBURN, Mr. KOLBE, Mr. HINCHEY, Ms. KILPATRICK of Michigan, Mrs. NAPOLITANO, Mr. MCGOVERN, and Mr. STARK.

H.R. 1498: Mr. WICKER, Mr. MCCAUL of Texas, and Mr. REGULA.

H.R. 1499: Mr. MILLER of Florida, Mrs. MILLER of Michigan, Mr. REICHERT, Miss MCMORRIS, and Mr. SMITH of New Jersey.

H.R. 1522: Mr. CUMMINGS.

H.R. 1547: Mrs. EMERSON and Mr. ROGERS of Michigan.

H.R. 1552: Mr. WEINER.

H.R. 1558: Mr. BERMAN and Mr. WEXLER.

H.R. 1585: Mrs. CHRISTENSEN, Mr. SHERMAN, and Ms. BALDWIN.

H.R. 1588: Ms. ROYBAL-ALLARD, Ms. MCCOLLUM of Minnesota, Mr. TIERNEY, and Mr. HASTINGS of Florida.

H.R. 1591: Mr. NADLER.

H.R. 1600: Mr. GRIJALVA.

H.R. 1602: Mr. COSTA and Mr. COBLE.

H.R. 1606: Mr. CANNON.

H.R. 1607: Mr. OXLEY.

H.R. 1634: Mr. WICKER, Mr. EMANUEL, Mr. CALVERT, and Mr. DOOLITTLE.

H.R. 1639: Ms. HERSETH.

H.R. 1642: Mr. SHADEGG and Mr. COOPER.

H.R. 1649: Mr. LOBIONDO.

H.R. 1652: Mrs. MCCARTHY, Mr. FRANK of Massachusetts, Mr. HASTINGS of Florida, Mr. ABERCROMBIE, Mr. MARKEY, Mrs. LOWEY, and Mr. SABO.

H.R. 1654: Mrs. CUBIN.

H.R. 1658: Mrs. MUSGRAVE.

H.R. 1671: Mr. PRICE of North Carolina.

H.R. 1678: Mr. GARRETT of New Jersey.

H.R. 1696: Mr. KANJORSKI, Mr. CLEAVER, and Mr. ORTIZ.

H.R. 1741: Mr. HOEKSTRA.

H.R. 1744: Mr. OWENS, Mr. BARTLETT of Maryland, Mr. HOEKSTRA, Mrs. JO ANN DAVIS of Virginia, Mr. SANDERS, Mr. WALSH, Mr. MOORE of Kansas, and Mr. MICHAUD.

H.R. 1745: Ms. BALDWIN, Ms. GINNY BROWN-WAITE of Florida, and Mr. INSLEE.

H.R. 1749: Mr. HERGER, Mr. DEAL of Georgia, Mr. BISHOP of Utah, and Mrs. CUBIN.

H.R. 1806: Mr. MCGOVERN and Mr. FRANK of Massachusetts.

H.R. 1879: Mr. CHOCOLA.

H.R. 1902: Mr. LIPINSKI, Mr. EMANUEL, Mr. STARK, Mr. PASCRELL, Mr. MORAN of Virginia, and Mr. WEINER.

H.R. 1931: Ms. ZOE LOFGREN of California and Mr. OWENS.

H.R. 1946: Ms. HERSETH, Mr. KUCINICH, Mr. MCDERMOTT, Mrs. MCCARTHY, Mr. SABO, and Mr. HINCHEY.

H.R. 1954: Mrs. MCCARTHY.

H.R. 1957: Mr. WILSON of South Carolina, Mr. PRICE of Georgia, and Mr. RADANOVICH.

H.R. 1973: Mr. TOWNS.

H.R. 2014: Mr. DOGGETT and Mr. ALEXANDER.

H.R. 2018: Mr. PUTNAM and Mr. MCCAUL of Texas.

H.R. 2034: Ms. HERSETH, Mr. BURTON of Indiana, and Mr. JOHNSON of Illinois.

H.R. 2046: Mr. GUTIERREZ, Mr. BILIRAKIS, Mr. BROWN of South Carolina, Mr. MORAN of Kansas, Mr. MICHAUD, Ms. CORRINE BROWN of Florida, Mr. MILLER of Florida, Mr. BRADLEY of New Hampshire, Mr. STEARNS, Ms. HOOLEY, Mr. UDALL of New Mexico, Mr. EVERETT, Mr. SNYDER, Mr. STRICKLAND, and Mr. HOLDEN.

H.R. 2060: Mr. HYDE, Mr. STEARNS, Mr. HUNTER, Mr. WELDON of Pennsylvania, Mr. CUNNINGHAM, Mr. SWEENEY, Mr. WHITFIELD, Mr. WAMP, Mr. TAYLOR of North Carolina, Mr. DUNCAN, Mr. CUMMINGS, Mr. SAM JOHNSON of Texas, Mr. GORDON, Mr. ABERCROMBIE, Mr. TAYLOR of Mississippi, and Mr. CRAMER.

H.R. 2062: Mr. GERLACH, Mr. ENGLISH of Pennsylvania, and Mr. FITZPATRICK of Pennsylvania.

H.R. 2068: Mr. EDWARDS, Mr. MCINTYRE, Mr. TURNER, and Mr. BOUSTANY.
H.R. 2074: Ms. HERSETH.
H.R. 2076: Mr. MARSHALL.
H.R. 2088: Mrs. MUSGRAVE.
H.R. 2107: Mr. WOLF.
H.R. 2122: Mr. LEVIN.
H.R. 2177: Mr. DAVIS of Kentucky, Mr. PASCRELL, and Mr. RENZI.
H.R. 2183: Mr. SAXTON.
H.R. 2203: Mr. SOUDER.
H.R. 2216: Mr. ISSA.
H.R. 2233: Mr. LANTOS, Mr. MCGOVERN, Mr. LIPINSKI, and Mr. GUTIERREZ.
H.R. 2248: Mr. RYAN of Ohio, Mr. BISHOP of Georgia, Mr. BOUCHER, Mr. TOWNS, Mr. HOLDEN, and Ms. KAPTUR.
H.R. 2306: Mr. LIPINSKI.
H.J. Res. 38: Mrs. LOWEY.
H.J. Res. 41: Mr. DEAL of Georgia.
H. Con. Res. 106: Mr. MARSHALL, Mr. WILSON of South Carolina, and Mr. SAM JOHNSON of Texas.
H. Con. Res. 108: Ms. ESHOO, Mr. LARSEN of Washington, and Mr. DINGELL.
H. Con. Res. 128: Mr. TERRY and Mr. SHAW.
H. Con. Res. 141: Mr. ROHRABACHER.
H. Con. Res. 144: Mr. BARTLETT of Maryland and Mr. MANZULLO.
H. Con. Res. 145: Mr. SNYDER.
H. Res. 76: Mr. REYES.
H. Res. 121: Mr. FLAKE.
H. Res. 123: Mr. OBERSTAR.
H. Res. 200: Mr. KENNEDY of Rhode Island.
H. Res. 214: Mrs. MUSGRAVE.
H. Res. 215: Mr. WAMP, Mr. KINGSTON, Mr. HERGER, Mr. COX, Mr. FLAKE, and Mr. CARTER.
H. Res. 243: Mr. DELAHUNT, Ms. HARRIS, and Mrs. CUBIN.
H. Res. 245: Ms. JACKSON-LEE of Texas and Mr. LYNCH.
H. Res. 261: Mr. NORWOOD, Mr. WHITFIELD, Mr. DEFAZIO, Ms. ESHOO, Mr. ALEXANDER, Mr. HASTINGS of Washington, and Mr. KENNEDY of Rhode Island.
H. Res. 266: Mr. PASCRELL, Mr. DUNCAN, Ms. SCHAKOWSKY, Mr. TERRY, Mr. INSLEE, Ms. WATSON, and Ms. ZOE LOFGREN of California.

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. 1650: Ms. LEE.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1544

OFFERED BY: MR. WEINER

AMENDMENT NO. 1: In title XVIII of the Homeland Security Act of 2002, as proposed to be added by the bill, insert at the end the following new section (and make such technical and conforming changes as may be necessary):

SEC. 18___. LIMITATION ON NUMBER OF UASI GRANTEES.

In carrying out the Urban Area Security Initiative, or any successor to such grant program, the Secretary may award not more than 50 grants for any fiscal year.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, MAY 12, 2005 No. 62

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, our refuge and strength, a very present help in the time of trouble, we thank You that You have set the star of hope in our life's sky, that in the darkness we can see Your brightness, that in times of shadow we can enjoy Your leading and guiding.

Lord, yesterday we were again reminded that life is fragile. As alarms sounded and brave people prepared for the worst, we could sense the uncertainty of our existence. Remind us daily that human flesh is as fleeting as fading flowers and withering grass. Teach us to number our days, to labor not simply for time but for eternity.

Protect our Senators in their going out and coming in, in their rising up and lying down. Give them the wisdom to believe that nothing can separate them from Your love. In a special way, bless our Capitol Police who daily labor with courage, competence, and commitment.

We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the last half under the control of the Democratic leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a 1-hour period for the transaction of morning business. Following that time, we will begin an hour of debate prior to the vote on invoking cloture on the substitute amendment to the highway bill. Senators can expect the cloture vote to begin sometime between 11:30 and 11:45 this morning. I expect cloture will be invoked and we will then be on a glidepath to finishing the bill. Once cloture is invoked, if invoked, I will be consulting with Chairman INHOFE and the Democratic leader to determine how much work is left before we are able to complete the bill.

I anticipate votes on amendments throughout the day today and into the evening, if necessary, to bring the bill to a close. Although a large number of amendments were filed to the highway bill yesterday, I believe Members will show restraint and not offer many of those that were submitted to the desk.

We are closing in on our second week of consideration of the highway bill and I look forward to completing the bill and getting this measure to conference as quickly as possible.

VISIT TO CAIRO, EGYPT

Mr. FRIST. Mr. President, the past 2 days I have taken the opportunity to come to the Senate to discuss my recess trip last week to the Middle East. As I mentioned yesterday, it was a fascinating experience that allowed me a firsthand glimpse of the complicated challenges facing the region. At each of my stops I had the opportunity to meet with top officials, community leaders, and I made a point of visiting with opposition candidates. With each conversation I became more convinced that despite the deep differences that divide them, each party wants peace, wants prosperity, and each side knows that dialog is the way forward.

Tuesday I spoke of my meetings in Israel. Yesterday I reported on my visit to the West Bank. Today I will briefly comment on my time in Cairo, Egypt.

We arrived on May 5 to a jampacked city of over 20 million people. We first met with President Hosni Mubarak, a lively and engaged and obviously well-informed man. We had an open and frank discussion about many of the issues facing the country, as well as the region at large.

In particular, President Mubarak expressed his strong belief in American leadership in the issues surrounding the Israeli-Palestinian peace efforts. We both agreed America is uniquely positioned to help both the Israelis and the Palestinians bridge their differences. We also agreed Egypt is critical to advancing this peace. As the regional Arab power broker and the first Arab country to make peace with Israel, this will be particularly true in the period following Israel's disengagement from Gaza.

There is great concern among Israelis that once they withdraw, Gaza will be used as a platform to launch attacks into Israel. President Mubarak stressed to me his commitment to keep this from happening. He stressed it is in Egypt's own interest to prevent Gaza from descending into chaos and lawlessness. That is why his country is prepared to field a border security force of 750 guards to stop weapons

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

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smuggling into Gaza and to prevent other criminal acts.

We also discussed the upcoming Egyptian Presidential elections. President Mubarak has asked his legislature for a change in the Constitution to allow multiple candidates to run for the Presidency. This is an important step toward full democracy. I applaud his efforts. I am disappointed, however, by reports that the Constitutional amendment just approved by Egypt's upper house requires Presidential candidates to meet certain conditions to win a place on the ballot. It is widely believed these regulations will prevent any serious contenders from running for President. In short, unless this amendment is modified, its final approval will practically guarantee the ruling party will select its own token competitors and continue its domination of the Presidency.

Meaningful reform means free and fair elections. Opposition candidates must be able to declare their candidacy freely. They must be allowed to broadcast their message through the media. And they must be permitted to acquire the resources necessary to run a genuine campaign.

Jailing opposition candidates, such as Ayman Nour, whom I had the opportunity to meet with in his apartment, and who recently declared from prison his intention to seek the Presidency, undermines the true meaning of democracy, and it undermines the people's faith that the Government is working on their behalf.

Egypt has been a close ally and good friend of the United States, but it still has a long way to go on the path toward political reform. After my meeting with President Mubarak, I held talks with Prime Minister Ahmed Nazif. He is pushing strong economic reforms throughout the country. He is lowering taxes and lowering other economic barriers, stripping away unnecessary regulations, and it is working.

According to the Prime Minister, the public sector used to contribute 70 percent to the GDP and the private sector 30 percent. Now those numbers are reversed, with the private sector contributing 70 percent and the public sector 30 percent. The economy is growing.

Lowering taxes and breaking down these barriers to opportunity are the keys to prosperity. It is gratifying to see this basic principle being embraced around the world. After failed experiments in socialism, as well as nationalism, Egypt appears to finally be embracing the power of free markets.

I am hopeful that as economic opportunity flourishes, the allure of extremism will fade, and the people and the leadership will be inspired to secure ever greater political freedoms.

While in Cairo, my group and I also visited the El Gallaa Maternity Teaching Hospital—the largest of its kind in the region. It is a large public teaching hospital. Over 20,000 babies are born there each year.

As I toured the hospital, I had the opportunity to meet with Egyptian doctors and nurses and other health professionals. I was also taken to the pediatric intensive care unit where dedicated health professionals worked to keep premature babies and at-risk newborns healthy. Their determination was inspiring, especially surrounded as they were by less-than-ideal conditions in downtown Cairo.

All in all, I came away from my stop in Egypt convinced that this historic country has the potential to set a positive example for the rest of the Middle East, and it is doing so. Egypt has been a trusted partner in the Middle East peace process and an important ally in the war on terrorism.

The United States must continue to promote democracy and freedom around the world.

As Egypt embraces these reforms, I am confident our two countries can form a stronger and more dependable relationship. I am confident that together we can achieve peace, security, and prosperity for the people of the Middle East.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from South Carolina.

JUDICIAL NOMINATIONS

Mr. DEMINT. Mr. President, in January of this year, I stood in this very Chamber, placed one hand on the Bible, and raised the other hand. In taking my oath of office, I made a simple pledge to uphold the Constitution of the United States of America. However, only 4 months later—because of the partisanship of some—I am prevented from fulfilling my oath.

It is interesting to observe what the Constitution requires of the Senate and what it does not. Nowhere does it say that Congress must pass new laws. But it does specify Senators must ''advise and consent'' on the President's judicial nominees.

How can I perform my constitutionally mandated duties to advise and consent without the ability to vote on the nominees sent to us by the President? How can I represent the people of South Carolina, who elected me to serve their interests, without the ability to vote yes or no?

Today, 41 Senators are preventing a bipartisan majority from carrying out the duty we were elected to fulfill. This is outrageous.

The President of the United States is given the authority, under the Constitution, to choose his own nominees. We have an obligation to vote on those nominees. Forty-one Senators are trying to thwart the will of the American people and the Constitution.

Beginning in 2003, Democrats used the filibuster to block up-or-down votes on 10 nominations to the Federal appeals courts. All had bipartisan, majority support. Do not be fooled by the misinformation of a few. Never in history has a judicial nominee with clear majority support been denied confirmation due to a filibuster.

Throughout my campaign, and each time I have been home this year, folks in South Carolina have told me how furious they are that the President's nominees are being denied a vote. Democrats have chosen to throw 200 years of tradition out the window by refusing to give judicial nominees a vote, and Americans are simply tired of the partisan obstruction.

Before I was elected, I said the Senate had become a ''graveyard of good ideas'' due to partisan liberal obstruction. Unfortunately, it has now become a ''graveyard of good nominees,'' such as Janice Rogers Brown.

California Supreme Court Justice Brown was nominated to the DC Circuit by President Bush in 2003. The first African American to serve on the California high court, Justice Brown received public support from 76 percent of California voters and is widely respected as a leading intellect on the bench. She has been unanimously voted as ''well qualified'' by the American Bar Association, which has been described by those who oppose her nomination as the ''gold standard'' of judicial ratings.

The daughter of sharecroppers, Justice Brown was born in Greenville, AL, in 1949. During her childhood, she attended segregated schools and came of age in the midst of Jim Crow policies in the South.

She has dedicated 24 years to public service, serving as legal affairs secretary to California Governor Pete Wilson; deputy secretary and general counsel for the California Business, Transportation, and Housing Agency; deputy attorney general in the Office of the California Attorney General; and as deputy legislative counsel in the California Legislative Counsel Bureau.

Just what is it that opponents of Justice Brown claim is their reason to deny her a fair vote? They obviously could not attack her experience or her character or her education or her intelligence, which are all impeccable.

Instead, they have used the political equivalent of a desperate ''Hail Mary Pass.'' They labeled Justice Brown as ''out of the mainstream.'' Really? Out of the mainstream?

Were three-quarters of Californians out of the mainstream when they elected her overwhelmingly to the State supreme court? She was elected by the largest margin of any of the judges up for retention that year.

Despite the claims of her opponents, her record demonstrates a commitment to interpreting the law, not legislating from the bench.

If the obstructionist Senators who are vehemently opposed to her nomination feel so strongly that she is out of the mainstream, then they should put their money where their mouth is and come down to this floor and make their arguments against her nomination, then allow all of us to draw our own conclusions and cast our vote.

If Justice Brown is so truly unqualified, then surely her opponents would

be confident of convincing a majority that this is the case. Otherwise, they are simply smearing the integrity of a highly respected jurist in order to score political points against the President at the expense of vandalizing the Constitution.

One of my goals as a Senator is to confirm highly qualified judges by ensuring timely up-or-down votes for all nominees no matter who is President, no matter which party is in the majority. That is my commitment, and I have encouraged Senator FRIST to consider all options, including the constitutional option, to end the undemocratic blockade of judicial nominees. Senators were elected to advise and consent, not to grandstand and obstruct.

I would like to say something to my colleagues across the aisle. There is a reason George W. Bush was elected to serve as President of the United States. It is because the majority of Americans trusted him to nominate judges.

There is a reason the American people elected a majority of Republicans to the Senate. They trusted our judgment to vote on judicial nominees.

There is a reason the Democratic Party is in the minority in Congress. It is because the American people did not trust them to make these decisions.

It is not a trivial matter. The issue of judicial nominations was at the forefront of every Senate campaign in the last two cycles. Voters across our Nation witnessed the obstruction of the Democrats over the last 4 years, and they rendered their judgment at the polls.

In 2002, they returned the Republicans to the majority in the Senate. Then, after 2 years of unprecedented and, in my opinion, unconstitutional denials of simple votes on judicial nominees, Americans elected an even larger majority of Republicans. In fact, the Democrat leader, former Senator Tom Daschle, was defeated by my colleague, Senator JOHN THUNE, in large part due to his high-profile obstruction of judicial nominees.

In my own campaign, I spoke frequently about the need to give every nominee a fair up-or-down vote. It was consistently the main issue voters brought up with me one-on-one.

Now that the American people have clearly spoken, by democratically electing a Republican President and a Republican majority in the Senate, 41 Senators are attempting to deny the will of the people. Forty-one Senators believe they know better than the majority of Americans. Forty-one Senators seem to think the elections and constitutional duties we have do not matter. What matters to these 41 Senators is petty partisan politics.

This temper tantrum must end. The Democrats must accept the judgment of the American people. They cannot disregard election results simply because things did not go their way.

Now let me speak to my own party's leadership. It is time for the Republican Party to lead, as Americans have elected us to do. We were not sent to the Senate as a majority to quibble about process and procedure. We were entrusted to carry out the duties laid out in the Constitution.

We ran on a platform of ideas to secure America's future, and the Nation largely agreed with our vision. We also ran on the need to give the President's nominees a fair up-or-down vote. The Senate Republican majority must stand up for the Americans who elected us. We must have the courage and conviction to uphold the Constitution and end the partisan obstruction. The time to act is now.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I am pleased to take the floor again on the matter of judicial nominations. As the emotions and politics of this issue keep building up, it is important we not lose sight of what this is all about. We have all heard the grim, little joke about the doctor who said: The operation was a complete success, but the patient died.

Sometimes we get so caught up in process that we ignore the reasons we are here in the first place: to achieve an outcome for the American people to get things done, to make a difference.

The outcome the people want, the outcome the President deserves, and the outcome the Constitution demands is an up-or-down vote—a simple up-or-down vote—on each of the appointments the President has submitted to us.

A couple years ago, I stood right over there, in front of that desk, and swore an oath to the Constitution of the United States of America. The Constitution directs each Senator to ''advise and consent'' on judicial appointments by the President, not to advise and obstruct, not to advise and block, but simply advise and consent—which simply means, and has always meant in the history of this country, up until last year, the opportunity for an up-or-down vote.

If you ask me, the term ''nuclear option'' belongs to the tactics taken by the minority, unfortunately, in the last 2 years. I would say they are treading on the traditions of this body, the balance of power between the branches, and the Constitution that we are sworn to uphold.

As the Bible says, what you sow, you will reap. When some in the minority decide to flaunt the historical procedures and understandings of this body, they should not be weeping and wailing and gnashing their teeth when the majority steps up to restore—to restore—200-plus years of accepted practice in this body, which is an up-or-down vote on judicial nominees once they have passed through committee. If the minority is feeling injured, they brought it on themselves.

Mr. President, I want to illustrate what a dramatic departure from historical precedent some in the minority have embarked upon in the last year when 10 of the President's judicial nominees were filibustered. For the first time, 10 circuit court nominees, at the level right below the Supreme Court, were filibustered.

Just look back a few years to the nomination of Clarence Thomas to the Supreme Court in 1991. It was a media circus, riven with charges, accusations, and controversy. Clarence Thomas was confirmed with a vote of 52 to 48. If the Democrats had wanted to defeat him, they simply could have filibustered his nomination. But they did not.

They could have filibustered his confirmation, but they did not. Did they fail to do so because they simply wanted to be nice? No. It is fair to state that they didn't filibuster because at that time, in 1991, it wasn't even conceivable, it wasn't in the history and tradition of this body that nominees who get through committee or to the floor would fail to get an up-or-down vote, 52 to 48. Have no doubt about it, if what is going on today was going on then, Clarence Thomas would have been filibustered. It did not happen. At that time, my colleagues did the right thing. They honored two centuries of tradition and allowed him an up-or-down vote.

I have done some quick research. Of the 109 Justices of the Supreme Court, my staff counted 55 Supreme Court Justices who could have been defeated if one of the parties had adopted the nuclear option, the filibustering of nominees, now employed by some in the Senate minority. Half of the Supreme Court Justices in our Nation's history might never have served. Who could that have cost us? Benjamin Cardozo, nominated by President Hoover, who gave us proximate cause, a cornerstone of today's tort law. Every college kid in America, including me, read Cardozo's opinion. How about Justice Marshall Harlan, appointed by President Hayes. He was the lone dissenter in Plessy v. Ferguson which upheld segregation policies. Fortunately, we did not force Justices Cardozo or Harlan or other Justices to overcome a partisan filibuster. It was not done. In fact, not only did we not filibuster the other party's nominees, we often elevated them, as was the case with Harlan Fiske Stone, who was appointed by a conservative President, Calvin Coolidge, and then elevated to Chief Justice by Franklin D. Roosevelt.

I could go on. Does anybody in this Chamber doubt in today's environment that William O. Douglas would never have made it to the Supreme Court, that his nomination would have been filibustered? Does anyone in this Chamber doubt for a moment today that Justices Antonin Scalia and William Rehnquist would not have a chance to serve on the Supreme Court because of a filibuster?

We have to think about the consequences of this dangerous precedent that unlimited debate be used to deprive the whole Senate of an up-or-

down vote. The consequences are that individuals with strong opinions—and they may be liberal or conservative—and great intellect would not have an up-or-down vote.

There has been an ebb and flow in American politics.

The Bible says there is a time for every season. There are Republican Presidents. There are Democratic Presidents. There is ultimately a balance. What is happening today, what happened last year with the unprecedented filibustering of judicial nominees was an attempt to change the Constitution, to require a supermajority for Supreme Court and circuit court nominees. We are changing the flow, changing the balance. We are getting rid of and will deprive this Nation of people with great intellect and passion because they won't be able to get past the roadblock of the minority.

The caution I hope some in the minority will take to heart is, what happens when the shoe is on the other foot. How would they feel if a future Democratic President's nominees were treated in the same fashion? In this body, we have to live with the precedents we set. The whole concept of due process is about guaranteeing a set of procedures which reach a fair outcome. It is not about guaranteeing one particular outcome.

Some in the minority are so bent on defeating a few of the President's nominees that they will distort the process to achieve the outcome. They will distort precedent and tradition. They will distort what has given us a balance of great intellect and passion and great minds on the Supreme Court. We will lose that. That would be a terrible thing.

We are stewards not only of government but of the Constitution. It is our solemn oath to maintain the orderly completion of the Senate's business, specifically the fulfillment of our constitutional responsibility. Today, we are on the cusp of having to assert the constitutional option. I hope it will not come to that.

Now I hear rhetoric from some Members of the minority that they are prepared to compound their error by killing the remainder of the jobs agenda that we are ready to pass in the Senate. The National Association of Manufacturers said this week that passage of the jobs agenda items—including the highway bill, the Energy bill, the asbestos reform bill, and telecom rewrite—would be a $1 trillion jolt to the American economy, to the U.S. manufacturing industry. Any Senator from States that don't need manufacturing jobs should feel free to object.

We need to focus not on the process but the result. I have a responsibility to advise and consent on the appellate judges the President has submitted. I will exercise that responsibility whether there be a Democratic President or a Republican President. I will look to their qualifications and then give them what they deserve: an up-or-down vote.

If need be, I support my leadership taking necessary steps to allow me to reach that constitutional decision with a simple up-or-down vote. That is all we are asking for.

I yield the floor.

The PRESIDING OFFICER. The majority whip is recognized.

VACANCIES ON THE SIXTH CIRCUIT

Mr. MCCONNELL. Mr. President, for the last 4 years, I have taken to the Senate floor from time to time to decry the crushing burden under which the Sixth Circuit Court of Appeals operates. The year has changed, but one seemingly immutable fact remains: The Sixth Circuit is the slowest judicial circuit in the country by far.

The Sixth Circuit has 16 seats. It covers Michigan, Ohio, Kentucky, and Tennessee, with a population of over 30 million people. For the last 3 years, the Sixth Circuit has been trying to function with 25 percent of its seats empty. Twenty-five percent of the Sixth Circuit is vacant. The vacancy rate is, as it has been for much of this dispute, the highest of any circuit in the Nation.

Not surprisingly, the judicial conference has declared all four of these vacant seats to be judicial emergencies. According to the Administrative Office of the Courts, last year, as the year before it, the Sixth Circuit was a full 60 percent behind the national average. According to AOC, the national average for disposing of an appeal is 10½ months, but in the Sixth Circuit, it takes almost 17 months to decide an appeal, 16.8 months. That means that in other circuits, if you file your appeal at the beginning of the year, you get your decision around Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you get your decision after the following Memorial Day, over a half a year later.

As the obstruction drags on year after year after year, things have gone from bad to worse. In 2001 and 2002, the Sixth Circuit was also the slowest circuit in the country. In those years, the average time for decision in the Sixth Circuit was 15.3 and 16 months respectively. In 2003, the average length of time for decision in the Sixth Circuit jumped to almost 17 months, 16.8—again, the slowest in the country.

I guess things have now hit rock bottom because the AOC reports that last year, 2004, the Sixth Circuit suffered from the same delay, almost 17 months, 16.8. Yet again, it was the slowest circuit in the Nation.

We all know the old saying that justice delayed is justice denied. The 30 million residents of the Sixth Circuit have been denied justice due to the continued obstruction of Sixth Circuit nominees by our Democratic colleagues.

What is the reason for this sorry state of affairs? An intradelegation spat from years ago when a quarter of the current Senate wasn't even here, nor was the current President. This dispute drags on year after year after year. I don't know who started it. I do know that with respect to nominees not getting hearings, the Democrats do not have a monopoly on disappointment. I also know that the obstruction that some of my colleagues are practicing on the Sixth Circuit is out of proportion to any alleged grievance.

My Democratic colleagues continue to block four Sixth Circuit nominees from Michigan: Henry Saad, David McKeague, Richard Griffin, and Susan Neilson. They are also blocking three district court nominees: Thomas Ludington, Dan Ryan, and Sean Cox. In fact, no Federal judges from Michigan have been confirmed during the Bush administration. Of the seven vacancies the Democrats refuse to let the Senate fill, five of the seats were not even involved in this dispute. Let me repeat that. Of the seven vacancies the Democrats from Michigan will not let be filled, five of the seven were not even involved in whatever this ancient dispute was.

President Clinton never nominated anyone to the seat to which Henry Saad was nominated. The seat to which David McKeague was nominated did not even become vacant until the current Bush administration on August 15 of 2001, and the three district court seats that are being blocked are not involved in the dispute, either. So five of the seven seats had absolutely nothing to do whatever with this dispute that went back to the Clinton years.

What the Michigan Senators are doing is holding up one-fourth of an entire circuit in crisis, along with three district court seats, because of internal disputes about two seats, the genesis of which occurred years and years ago. This is an absolutely embarrassing situation.

What are our friends from Michigan demanding in order to lift the blockade? They want to pick circuit court appointments. Let's get back to first principles. As much as they would like, Democratic Senators do not get to pick circuit court judges in Republican administrations. In fact, as much as we would like on this side of the aisle, Republican Senators do not get to pick circuit court judges in Republican administrations. In short, circuit court appointments are not Senatorial picks. Article II, section 2, of the Constitution clearly provides that the President and the President alone nominates judges. It then adds that the Senate is to provide its advice and consent to the nominations the President has made. By tradition, the President may consult with Senators if he chooses, but the tradition of consultation does not transform individual Senators into co-Presidents. We have elections for that, and President Bush has won the last two.

Finally, the Democrats have recently indicated that they will afford three of the circuit nominees an up-or-down

vote along with one of the other filibustered nominees if we abandon our efforts to ensure that all nominees receive an up-or-down vote. The Democrats don't care which of the other four nominees are put on the bench because they let us pick the nominee.

Well, we are not going to toy with these people's careers. They have waited patiently for years to receive the simple dignity of an up-or-down vote, and we are working to restore the norms and traditions of the Senate that existed prior to the previous Congress so they may receive one. But the fact that our Democratic colleagues are now willing to afford one or more of the individual filibustered nominees the courtesy of an up-or-down vote but not allow the same nominees collectively to receive up-or-down votes shows that our Democratic colleagues recognize that each of these nominees is deserving of an up-or-down vote. More than that, it shows the partisan and political nature of the opposition.

Last year, our Democratic colleagues said all seven of these judicial nominees were ''too extreme.'' Now they say only three are too extreme. So one of the following three statements is true: The nominees changed, or the Democrats' definition of what constitutes extremism has changed, or they never really meant it in the first place. Let me repeat that. One of three things is true: Either the nominees who were extreme last year are not extreme this year, the Democrats' definition of what constitutes extremism changed between last year and this year, or they never really meant it in the first place.

It is no wonder many people concluded that what is at work is really just partisan politics. Mr. President, we should not play partisan games with the nomination process. We should take our constitutional duties seriously.

I ask our Democratic colleagues to afford these nominees collectively what they are willing to afford each of them individually; that is, a simple up-or-down vote.

Mr. President, 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. SCHUMER. 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 New York.

TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

Mr. SCHUMER. Mr. President, I ask unanimous consent that Mr. REID from Nevada be added as a cosponsor of S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by my friend, Senator DODD of Connecticut.

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

Mr. SCHUMER. Mr. President, we still live in America, and particularly in my city of New York, in the shadow of 9/11, of the terrorism that occurred. Obviously, the thousands of families who have had a loved one taken from their midst live with it every moment of their remaining lives, but the rest of us live with it, too, not only in empathy for them but also in terms of the economic consequences of terrorism.

The bottom line is very simple, and that is, because of terrorism, the insurance industry, in terms of insuring risk of large structures in America—whether it be large buildings that make us so proud of the Manhattan skyline, or large arenas such as the football stadiums that dot America, or larger facilities such as Disneyland, Disney World, and amusement parks—all have difficulty getting insurance.

Insurers are worried that if, God forbid, another terrorist act occurs it will be so devastating that it will put them out of business. So they either provide no insurance or provide it at such a high rate because of the downside risk. Small as it may be—and we hope it is—it is still possible that an act so enormous that if, God forbid, it occurs, they do not want to be involved.

So 2 years ago, the Senate, House, and the President got together at sort of the end of the day and passed terrorism risk insurance. It has been a large success. Insurance rates have come down, terrorism insurance is available, and insurance companies know if, God forbid, the worst happens there will be a backstop, and they are willing to issue policies. In turn, that means developers, builders who want to build new large structures in America, will do so, employing thousands and thousands of people, creating profits and new businesses as well.

We now come to the fact that this legislation expires—it was passed as an experiment; those who were dubious of it said, Let's see how it works—in December. But the urgency to act is much sooner than December because policies are not written for 6 months. If right now you are a business and you want to renew your insurance against risk for 1 year or 2 years or 3 years, that policy would go beyond December.

What the insurers say to many is, ''I will raise your rate dramatically'', which will raise costs and shut down construction, or ''I will not insure you at all'', which certainly shuts down construction. It means nothing will get built. So we should move this legislation quickly.

I stress we do not need to repeat last year by delaying and delaying. Last year, we began to witness, when we delayed a great deal, a loss in economic activity in the larger cities of this country in particular, even though we were well aware that ultimately this had to be done.

There are really only two alternatives. One is going to be no terrorism insurance. The private market will not fill the gap. That will prevent tens of billions in projects from going forward this summer and this fall, not next year but right now.

The second is that the market will fill the gap but only at such extraordinary prices and only in unique situations that the same thing would happen.

Why are we sitting in the Senate and in the House twiddling our thumbs? Our economy is squishy, oil prices are up, other economies outside of Asia are down, including Japan's actually, and, therefore, we are worried about the economy, and here we are putting another log on the tracks in the way of economic recovery.

There can be no dispute that terrorism insurance works, and there can be no dispute that if we do not renew it, there will be trouble. The ratings agencies have said in no uncertain terms that come December 31, if there is no terrorism insurance, they are not going to be able to give any kind of decent rating to any insurance offer.

These guys are insurers. They look for risk. They live with risk. They wake up in the morning thinking a risk, they go to sleep at night thinking a risk. We can say, oh, well, and have an ideological debate about how much should the Government be involved, or we can say, actually, people are not as worried about terrorism. It does not matter what you think, Mr. President, or what I think, it is what these insurers think. If the rating agencies say they are not going to give a decent rate to insurers, it is over, and we will not have it.

Moody's noted in an insurance brokers report that up to 75 percent of the policies written since January 1 have adopted a conditional endorsement that voids terrorism coverage if TRIA is not renewed. As we go through the year, the number of endorsements, they said, is expected to increase.

The report specifically stated these conditional endorsements appear to be an indication that unless terrorism insurance is renewed, premium spikes or a sharp reduction in the availability of coverage may result.

The report warns—this is very important—that Moody's is unaware of any viable private market initiative that would take the place of TRIA.

There are some who say: Let it expire and let's see what the market does. That is taking a huge risk because if the market does not come in, then we have hurt construction workers, laborers, and all those who would work in these buildings.

Alan Greenspan, the Chairman of the Federal Reserve, is a very well-respected voice around here, as he should be, in my opinion. He is a free-market guy. He does not like Government involvement. Right now, I am going toe to toe with him about Fannie Mae and Freddie Mac. He would like to curb their role because he does not like the Government involved. I think they are needed in the housing market. But on

terrorism insurance, even Alan Greenspan admits it is needed. Here is what he said:

> This is a very difficult issue, because remember that the private markets work exceptionally efficiently in a civilized society in which domestic violence or violence coming from abroad is not a central factor.
>
> You cannot have a voluntary market system and the creation of markets, especially insurance markets, in a society subject to unanticipated violence. And as a consequence, there are certain types of costs, which is what we have the Defense Department protecting us from, which we essentially choose to socialize.
>
> The less of that we have, the better off society is.

Of course, this is his view, and he wants to make sure you know he does not want us to do this everywhere.

> There are, nonetheless, regrettable instances in which markets do not work, cannot work. And while I think you can get some semblance of terrorism insurance, I have not been persuaded that this market works terribly well.

It is pretty clear, we need to renew this legislation, and it is likely we will renew it. What is so incredible is we are waiting and waiting, and every day we wait causes damage to jobs and the economy.

The bottom line is that financial dislocation caused by another possible terrorist attack—God forbid—is too much for our country to risk. I urge the entire Senate to pass this legislation quickly. It is cosponsored by 25 of my colleagues, and we should move it without delay and let the markets, let the insurance world, and, most of all, let jobs and construction go forth.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Journal clerk proceeded to call the roll.

Mr. REED. 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. REED. Mr. President, I would like to be recognized as in morning business.

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

Mr. REED. Mr. President, I rise to discuss the Terrorism Risk Insurance Act, or TRIA. This law is necessary to make our economy function smoothly and effectively and to protect it from the risk of a terrorist attack.

After 9/11, we enacted a number of measures including the Terrorism Risk Insurance Act, to enhance and stabilize the security of our citizens and our economy. TRIA provided a high-level Federal backstop that allowed private insurance and reinsurance markets to return and to allow American businesses to overcome the shock of September 11. TRIA seems to have performed exactly as we intended, but as we all know the program expires at the end of this year. I am getting concerned that we are fast approaching the point where we need to move forward and reauthorize the TRIA. We can't allow this program to expire without a short-term extension or longer term solution to be put in place.

But as we consider whether to extend TRIA, we should look closer at the two main goals we tried to accomplish with the law. First, as I just noted, we wanted to make sure that the market and the economy functioned in the wake of 9/11 and in the face of the threat of terror. After 9/11, the insurance companies looked at their risk for the first time in the context of a mass casualty destructive act that would destroy buildings, that would kill perhaps thousands of people, and they decided that they alone could not take this risk. In light of the new conditions, the passage of TRIA, provided a necessary backstop, and allowed the private insurance companies and the market to function effectively.

One of the areas that I became concerned about was workman's compensation. Most people would say: What does that have to do with a major attack that falls upon a large building or a major city or some other key facility? The point is thousands of workers are covered by workman's compensation. Those deaths and injuries would trigger workman's compensation. That is just one example of the situation caused by 9/11, the situation of uncertainty, the situation of potentially huge losses which never before were fully calculated by the insurance companies. That part of the purpose of TRIA has worked very well. Our insurance markets are functioning smoothly today.

But there is a second important reason, and that second important reason is that many of us felt that we needed to have a policy in place all the time to allow the economy to rebound more quickly in the unfortunate event of another terrorist attack here in the United States.

Let me just remind you, as we left this Chamber yesterday morning, as we moved to assembly areas, as we evacuated all these buildings, the notion of a further terrorist attack was not something hypothetical or remote. For an instant there, there was real concern that we would be struck again. And if we are struck again and we do not have in place a terrorism reinsurance program, the insurance industry will once again face the same dilemma we saw on 9/11: we can't cover these risks; we are overexposed; we can't provide insurance in the future. That slows the economy down and potentially in many different ways. TRIA has to be in place. As long as we are sincerely persuaded that there is a terrorist threat, and I know I am, then we have to have this TRIA program in place.

Some opponents of the extension argue that TRIA should be a temporary program because by ending it private terrorism insurance markets will be forced to stabilize and provide adequate capacity to meet the demand for coverage. I do not think that will happen. I think the markets will stabilize because companies will not write risks. And if you are trying to build a major building in a major city, guess what? Try to get insurance. If you propose to put in a major office complex with thousands of workers, try to get workman's compensation insurance. You will not get it. That is the way the market will respond to the uncertainty caused by the potential attack of terror, and that will hurt our economy grievously. I think we have to recall and realize that we still are under the threat. I think we have to also be conversant with the fact that there will be dramatic economic effect even if a small attack is waged by terrorists because the psychological dimension is just as important in many respects as the physical damage. So we have to have in place this terrorism reinsurance program, and we are running out of time to do it right, carefully, thoroughly, and get it done before the end of the year. As you may know, the Treasury Department is required to report to Congress by June 30 of 2005 on issues associated with the act and its purposes. While I am looking forward to the conclusion of the Treasury Department study, it will have little, if anything, to do with the second aim of the law; namely, having a policy in place in the event there is another attack in the United States.

It is this ''preparedness'' reason that most compels me to believe that we need to continue a Federal terrorism insurance program. This Congress, Senator DODD and Senator BENNETT reintroduced the extension bill, S. 467, the Terrorism Risk Insurance Extension Act of 2005, of which I am an original cosponsor. In addition to extending TRIA to 2007, this bill establishes a Presidential working group on financial markets to submit a report to Congress containing recommendations to address the long-term availability and affordability of terrorism risk insurance.

The administration thus far has been silent on extending TRIA. It is essential that the administration lead rather than follow in this process of legislative deliberation. Furthermore, vacancies in key administration positions have led to a vacuum in leadership and communication needed for good policymaking as we approach deliberations on TRIA. Extending TRIA is absolutely the right thing to protect the economic security of our country. I urge my colleagues to take a close look at this legislation and join us in supporting it.

I thank the Chair. I yield back my time.

Mr. REID. Mr. President, I ask unanimous consent to include in the RECORD at the conclusion of my remarks a written statement that I submitted at a symposium sponsored by the U.S. Chamber of Commerce on extending the Terrorism Risk Insurance Act, or TRIA, and a letter signed by seventy-four CEOs of the largest integrated financial services companies in

the country which provide banking, insurance and investment products and a second letter from the Coalition to Insure Against Terrorism, CIAT, which represents over seventy-five companies and major associations, a virtual cross section of the U.S. economy, both of which express strong support for extending the terrorism insurance program.

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

(See exhibit 1.)

Mr. REID. Mr. President, in 2002 I cosponsored, and Congress passed, the Terrorism Risk Insurance Act, commonly referred to as TRIA. This important legislation provided a government backstop for the terrorism insurance market that disappeared after the attacks of September 11. TRIA is working. Today, because of TRIA, terrorism risk insurance is available and businesses have meaningful access to coverage. The primary purpose behind TRIA, and the reason it needs to be extended, is to make sure that the American economy and markets function in the face of a terrorist threat. There needs to be a mechanism in place to allow the economy to rebound more quickly and to protect American jobs in the unfortunate event of another terrorist attack here in the United States. The threat of an attack has not gone away and will not go away when TRIA expires at the end of 2005.

While some in Washington continue to hope that a private market will develop in the absence of TRIA, let me quote from two reports put out recently by those who are in the business of watching markets. The first is a Special Report by the rating agency Moody's Investors service dated April 28 which expressed concern about the potential effects of the pending expiration of the Terrorism Risk Insurance Act, TRIA.

Moody's noted, that insurance brokers report that up to 75 percent of policies written since January 1st have adopted a conditional endorsement that automatically voids terrorism coverage if TRIA is not renewed, and that the number of conditional endorsements is expected to increase as the year progresses. The report stated, ''These conditional endorsements appear to be an indication that unless TRIA is renewed, premium spikes, or a sharp reduction in availability of coverage, may result. The report warns, ''Moody's is unaware of any viable private market initiative that would take the place of TRIA.''

Secondly, Marsh Inc., in a report released on April 25, entitled Marketwatch: Terrorism Insurance 2005, concludes: ''If TRIA is not extended, the stand-alone insurance market is unlikely to have sufficient capacity to satisfy all of the expected demand at commercially viable prices.''

The Bush administration official who spoke at the recent U.S. Chamber symposium on TRIA simply gave those in attendance a history lesson on the issue, but refused to give any indication whether the administration would support or oppose an extension of TRIA. Policy holders from major sectors of the economy—real estate, financial services, energy, entertainment, hotel, and hospital industries—feel like they are being left to twist in the wind wondering whether the administration and the Congress are going to take the necessary action so that they can properly and responsibly protect their properties. There is absolutely no sense of urgency by this White House and I think they would like to see this issue quietly go away.

The financial dislocation caused by another possible terrorist attack is too important to ignore and we should not continue to delay action on an issue that is so important to our economy and the American workforce. We should act on extending TRIA and act promptly.

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

CHAMBER OF COMMERCE TERRORISM REINSURANCE CONFERENCE

REMARKS BY SENATOR HARRY REID

(Thursday, March 17, 2005)

I was a co-sponsor of the Terrorism Risk Insurance Act (TRIA), which Congress passed in 2002, and I strongly agree with many of you, that we need to extend this important program as soon as possible.

After the attacks of September 11th, private insurance was no longer available to cover losses caused by terrorist attacks. It became impossible to purchase property and casualty insurance to cover losses to real property and the people in those buildings because the risk was too difficult to measure. This created serious problems in the real estate and commercial development sectors and essentially stopped construction of new buildings because banks would not loan money for projects that could not be insured.

When a meaningful market for terrorism insurance failed to develop after several months, it became clear that Congress needed to do something to prevent continued disruption to the economy.

We passed TRIA and it is working today.

Because of TRIA, terrorism risk insurance is available and businesses have meaningful access to coverage. I don't think we can underestimate its impact on the economic recovery we have seen in Nevada and other parts of the country.

As you know, TRIA is set to expire at the end of 2005. Its looming expiration has huge implications for our economy and job creation. Already I have heard reports that insurance providers will not write terrorism insurance policies in large, metropolitan markets such as Las Vegas, Chicago and Washington, DC in light of TRIA's near expiration. I regret that this is taking place, and I worry about the impact this will have on our economy if the insurance they need is not available.

The White House seems to be content on waiting for the Treasury Department's report on the terrorism insurance market before making any decision. That report is not due until June 30th. That's too late and waiting until this summer to make a decision creates too much uncertainty for the real estate, construction and insurance industries.

When many of us voted for TRIA, we did so for two principle reasons. First, we wanted to make sure that the markets functioned in the face of the threat of terrorism. We wanted to restart the construction industry and get people back to work. But the second important reason for this legislation—and I believe President Bush stated this when he signed the bill into law—was that many of us felt that we needed to have a policy in place to allow the economy to rebound more quickly in the unfortunate event of another terrorist attack here in the United States. We felt that having an insurance program in place would ensure that economic activity would continue after a terrorist attack.

And this second reason is why I am so concerned about the President's ''wait and see'' approach to extending TRIA. The Treasury department's study—whatever it finds—is only focusing on the first reason that TRIA was put in place. It has little, if anything, to do with the second reason for the Act.

It is this ''preparedness'' reason that is the real convincing reason that causes me to say we need to continue a Federal terrorism insurance program, and we do not have to wait for the Treasury department to further the debate on that.

I also support inclusion of group life coverage in the TRIA bill when it is reauthorized. There continues to be a lack of available catastrophe reinsurance coverage for the group life insurance industry and the absence of reinsurance coverage poses a significant risk for the 156 million American families who rely on the promised survivor benefits of their group life insurance policies.

If the President is serious about creating jobs and maintaining the health of the U.S. economy, he needs to get behind efforts to extend this law now. Otherwise, it is just not going to happen. American businesses are already being told by insurers that they face the prospect of going without terrorism coverage by year-end.

Prior to TRIA's enactment in 2002, $15 billion in real estate transactions were cancelled or put on hold because there was no terrorism insurance available. Commercial construction was at a six-year low. According to the White House, over 300,000 construction jobs were lost or put on hold because there was no terrorism insurance available. Bond rating agencies downgraded $12.5 billion worth of commercial mortgage-backed securities because of the lack of available terrorism insurance. Lenders began to ''force place'' terrorism insurance coverage on many properties, despite the fact the only available terrorism coverage was deficient, defective and priced at levels that negatively affected the economics of the underlying properties.

Extending TRIA makes good economic sense, and I hope the White House and my Republican colleagues who control its fate will work with our caucus and move swiftly to extend it.

THE FINANCIAL SERVICES ROUNDTABLE,
Washington, DC, April 27, 2005.

Hon. BILL FRIST,
Hon. HARRY REID,
U.S. Senate, Washington, DC.
Hon. J. DENNIS HASTERT,
Hon. NANCY PELOSI,
House of Representatives, Washington, DC.

DEAR MAJORITY LEADER FRIST, SPEAKER HASTERT, MINORITY LEADER REID AND MINORITY LEADER PELOSI: We are writing in support of an extension of the Terrorism Risk Insurance Act (TRIA).

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer.

TRIA is not likely the long term answer to how policy holders, insurers and the government deal with terrorism coverage. It is,

however, a program that keeps policy holders from bankruptcy, insurers from insolvency, and taxpayers from paying the full cost of a catastrophic terrorist event. From this standpoint, it has been a success and it is essential that the program be extended for a determinant period of time.

An extension should meet the following principles:

It should extend the current program for a reasonable period of time;

It should hold retention levels at the current program limit;

It should provide a backstop for group life policies; and

It should require stakeholders to determine the nature of a public private partnership going forward (including, specifically, a study of how to deal with threats posed by nuclear, biological, chemical and radiological attacks).

We recognize that TRIA is not working perfectly for all stakeholders. For some insurers the retention levels require companies to underwrite as if the program does not exist, and any increase in retention levels will render the program useless. But we believe that TRIA has helped to stave off the economic dislocation that could have filled the vacuum left by drain of insurance industry capital post-9/11. In instances where states have granted exclusions, insurers who otherwise could have walked away from this type of risk have not because of TRIA. In states where no exclusion exists, or for those carriers who write worker compensation coverage, the backstop is insurance against insolvency.

Thank you for your attention to this important issue. Please do not hesitate to contact us if we may be of assistance on this or other issues.

Best regards,

STEVE BARTLETT,
President and CEO.

Also signed by 74 others.

COALITION TO INSURE AGAINST TERRORISM,
Washington, DC, April 26, 2005.

DEAR SENATOR REID: The Coalition to Insure Against Terrorism (CIAT), a broad-based coalition of business insurance policyholders representing a significant segment of the nation's GDP, strongly supports S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by Senators Bennett and Dodd. As the principal consumers of this vital insurance coverage, CIAT urges you to cosponsor this important legislation.

With the Terrorism Risk Insurance Act (TRIA) set to expire at year-end, there is no evidence to suggest that insurance markets will be able to provide adequate insurance against catastrophic acts of terrorism without a federal reinsurance backstop. Based on recent testimony from senior Administration officials, the threat of terrorism within our homeland remains as high as it did on 9/11. Earlier this year, CIA Director Porter Goss said before the Senate Intelligence Committee: ''It may be only a matter of time before al-Qa'ida or another group attempts to use chemical, biological, radiological and nuclear weapons'', and ''al-Qa'ida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the Homeland.''

This stark reality, together with the unique factors that make the terrorist threat akin to the risk from war, continues to prevent insurers from effectively modeling and pricing the risk of future catastrophic terrorism attacks, thereby seriously hampering the development of any viable catastrophic reinsurance alternatives to TRIA.

To date, the terrorism reinsurance program established by TRIA has achieved the goals envisioned by President Bush and bipartisan leaders in Congress in 2002. First, it has helped keep the economy going in the face of continued terrorist threats by ensuring that businesses across America can secure this essential coverage, saving countless jobs in the process. Second, it serves as an important tool to minimize the severe economic disruption that almost certainly will occur should there be a future terrorist attack of catastrophic proportion.

S. 467 would extend the current TRIA program for a short period of time while also creating a group of insurance and risk management experts to work with the Presidential Working Group on Financial Markets to develop a longer-term solution. If enacted, this legislation will ensure that the nation's workers and businesses will be able to secure adequate and affordable insurance coverage against terrorism after year-end, and that the nation has a sound policy in place to enable the economy to quickly recover should another terrorist attack occur in the U.S.

CIAT believes that it is absolutely critical that Congress act quickly to extend the Terrorism Risk Insurance Act (TRIA) beyond December 31, 2005. Extending TRIA is an essential part of our nation's economic preparedness against terrorism, as well as an essential element of our nation's economic security. With only a few months left, American businesses and property owners face the threat of going without adequate and affordable terrorism insurance coverage next year. Without a federal terrorism risk reinsurance program in place, our economy will be needlessly disrupted and significant U.S. economic interests and jobs are likely to be exposed to the uninsured costs of a major terrorist event.

To this end, CIAT respectfully requests that you cosponsor S. 467.

Sincerely,

THE COALITION TO INSURE AGAINST TERRORISM.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Dorgan amendment No. 652 (to amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices.

Nelson (FL) (for Feingold) amendment No. 610 (to amendment No. 605) to improve the accuracy and efficacy of identity authentication systems and ensure privacy and security.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the Senator from Oklahoma and the Senator from Vermont or their designees prior to the vote on the motion to invoke cloture on the pending substitute amendment.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, those of us who are in the managing positions want to explain what it is about and why the cloture is very important. However, we do want to accommodate the Senator from Arizona, who is busy with a markup right now, and if there is no objection, I would recognize him for up to 8 minutes.

Mr. McCAIN. Mr. President, I thank the Senator from Oklahoma and the Senator from Missouri for their courtesy, and I will try to be brief in my statement.

Nearly 50 years ago, the Federal-Aid Highway Act of 1956 was enacted into law. As I mentioned during last year's debate, the 1956 act added up to a mere 29 pages—a tiny fraction of this year's highway bill. But what it accomplished truly changed this country. The act created programs that led to the construction of the Interstate Highway System, the largest civil works project ever undertaken by the United States. The 1956 act was the brainchild of President Eisenhower to establish the highway trust fund, financed by taxes on gasoline to fund this massive undertaking. The act required the construction of an interstate highway system using a uniform design that would be safer than most U.S. highways in existence at that time.

Mr. President, today we are all the beneficiaries of the foresight of President Eisenhower and of the Congress that helped to shepherd the legislation through to enactment. The Interstate System today is 47,000 miles long, comprised of 62 superhighways crisscrossing the Nation in a grid. Twenty-four percent of all travel occurs on the interstates, and the system has obtained a record of being twice as safe as other highways.

Unfortunately, when people look back 50 years from now at the highway legislation that the Senate will consider shortly, I doubt that history will remember this as having helped improve on President Eisenhower's ''grand plan.'' We are no longer focused on building a unified transportation system to improve the safety, security, and economy of our Nation as a whole. Instead, we are faced with legislation that redistributes funding to the States in an unfair manner.

Approximately every 6 years we reauthorize our Nation's multiyear highway, transit, and safety programs. We last reauthorized these programs in 1998 with the enactment of TEA–21 following extensive debate in the Senate. In the 108th Congress we did not reauthorize these programs, and, instead, Congress passed a series of short-term extensions of TEA–21, and this happened for good reason. The bill brought to the Senate floor in the last Congress would have increased overall funding to $318 billion, $100 billion over the TEA–21 enacted level.

I commend the chairman of the Environment and Public Works Committee for reducing the authorized number to match the President's fiscal 2006 budget proposal of $284 billion in the version of the bill reported by his committee. Reduction in the overall size of the bill was a significant improvement over the legislation presented to the Senate last year. Fiscal discipline is a key component of this debate. As Alan Greenspan warned some days ago, ''Under existing tax rates and reasonable assumptions about other spending, projections make clear that the Federal budget is on an unsustainable path in which large deficits result in rising interest rates and ever growing interest payments that augment deficits in future years.''

We need to control our spending. We must. And that is why the overall size of this bill should not be inflated. We are considering a substitute amendment to the bill that as proposed increases obligations by $11 billion, and I think that is wrong.

According to the Statement of Administration Policy regarding the highway bill, ''Should the obligation or net authorization levels that would result from the final bill exceed (that amount), the President's senior advisors will recommend that he veto the bill.''

Apparently, we are now going to test whether the President will veto the bill.

Fiscal prudence is crucial, but even if the conferees act sensibly and recognize the need for an agreement that would be acceptable to the President, that alone would not make the legislation adequate.

Equity is also crucial and, unfortunately, the highway bill that is before us retains unfair features of past bills. In some cases, it is even more unfair than last year's legislation. This year's highway bill perpetuates the historical discrepancy between donor States and donee States.

Remarkably, not only does the bill continue the disparity, it actually exacerbates it. Whereas the bill that was passed last year by the Senate would have increased theoretically every State's rate of return to 95 percent in the final year of the bill, the substitute amendment before the Senate only promises a rate of 92 percent in 2009 for those States. Until then many States would linger at a rate of return of 90.5 in the first year and 91 percent thereafter while others receive more—in some cases much more than what they contribute to the highway trust fund. As if that were not enough, this year's bill would actually propose to create further disparities between States. Although ''equity'' is in the title of the legislation, the number of donor States would increase from 28 under current law to 31. Under the Environment and Public Works Committee's so-called formula, which is less a formula than it is a series of calculations consisting of arbitrary funding caps and floors, some States would actually receive a greater rate of return than they would have under last year's bill, despite the fact that this year's overall funding is less. That is remarkable.

My colleagues may wonder how this is possible, and they may question my facts. But as hard as this may be to believe, it is true. For example, the State of Missouri, which currently receives a rate of return of 91 percent, would have received an increased rate of return of 95 percent immediately and then throughout the reauthorization. Under the substitute amendment before us, Missouri will go from a rate of return of 91 percent to 99 percent immediately.

Despite Missouri's good fortune, five States would continue to linger at the bottom of the barrel for 4 years. In the fifth year, at least theoretically, these States would increase their rates of return to 92 percent, a modest increase of 1.5 percent over current law; 1.5 percent when other States enjoy a rate of return of over 200 percent, in one case almost 530 percent, in that final year. They say that beggars can't be choosers, but this legislation shouldn't be passed solely to prove that point. States like Arizona, California, and Texas should not be in the position of begging for their fair share of contributions to the highway trust fund.

I fully recognize that during the years when the Federal Government was building the interstate system, a redistribution of funding between the States may have made sense. Clearly, it would have been very difficult for the State of Montana, for example, with fewer than a million people, to pay the full cost of building its share of the intestate system. But that era is over. Congress declared the construction of the interstate system complete in 1991. Yet here we are, almost 15 years later, and donor States are still expected to agree to the redistribution of hundreds of millions, if not billions, of dollars to other States regardless of the already enormous transportation needs of donor States.

Let me be clear. Today, the need is in the highest growth States, which face some of this Nation's toughest transportation challenges. According to the most recent Census Bureau projections, Florida, Texas, and Arizona, all superdonor States receiving the minimum rate of return, will be among the five fastest-growing States over the next 25 years. Yet the donee States, many with shrinking populations, continue to receive growing subsidies from donor States. Meanwhile, States like Florida, Texas, and Arizona, and others including Colorado and Indiana, would be held for no apparent reason at the bottom. Other States, including Georgia, Illinois, Maryland, Minnesota, Nevada, New Jersey, North Carolina, South Carolina, and Virginia also would continue to get shortchanged. This is not the right approach, it is unfair, and we should do everything we can to ensure that any bill voted off this floor is more equitable for all States.

Now, I am sure we will hear about the great transportation needs of the States that receive more funds than they contribute. And I have no doubt that those States do, in fact, have significant needs. But how was it determined that California, for example, should have an average of $260 million per year of its funding redistributed as the EPW-reported bill would direct? Why aren't California's transportation needs as worthy of receiving the same percentage of Federal funds as provided to meet the transportation needs of a State like New York, for example, which is scheduled to receive a rate of return of 111 percent, or an average of over $140 million per year more than it contributes. This significant rate of return isn't the product of savvy investment. It is a guaranteed rate of return well above 100 percent that is built on the backs of donor States.

Why should a State like Alaska receive a rate of return in 2009 of almost 530 percent when it currently already receives a return of 500 percent? Why should Montana receive a rate of return of almost 228 percent, or Vermont a rate of over 212 percent? These figures defy any reasonable explanation other than the following: This bill is less about the integrity of our Nation's transportation system than it is about maximizing the amount of money going to some States at the expense of others.

I support a long-term reauthorization of our Nation's surface transportation programs and I understand the vital nature of this funding to our States. But before we take action on this bill, I urge my colleagues to start asking questions and to take seriously the consequences of increasing the size of this bill beyond the $284 billion level and of perpetuating the inequitable distribution of funds under this legislation.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Oklahoma.

AMENDMENT NO. 636 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order to call up Ensign amendment No. 636.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. ENSIGN, proposes an amendment numbered 636.

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 amendment is as follows:

(Purpose: To authorize the State of Nevada to continue construction of the US-95 Project in Las Vegas, Nevada)

On page 410, between lines 7 and 8, insert the following:

SEC. ____. US-95 PROJECT, LAS VEGAS, NEVADA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the project identified

as the preferred alternative in the document entitled ''US–95 Project in Las Vegas, Nevada'', as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, shall be considered to meet all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any related laws with respect to the determination contained in the record of decision.

(b) AUTHORIZATION.—The State of Nevada may continue construction of the project described in subsection (a) to completion.

Mr. INHOFE. I ask unanimous consent that that amendment be set aside.

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

Mr. INHOFE. Mr. President, I have a couple of brief comments. I know how sincere the senior Senator from Arizona is concerning this bill, and it does demonstrate that it is very difficult when we are trying to be fair and we are trying to do a formula to make everybody happy. Probably every Senator is a little bit unhappy with it. That is what makes it, perhaps, a fair formula.

It is true—the Senator was accurate—as far as the history of the Interstate System back in the Eisenhower administration and the redistribution of funds. This is what we have to keep in mind, though: Yes, the Interstate System is complete, but it still must be maintained.

He talked about the State of Montana. Yes, it is true the State of Montana does not have the population to support the highways, and yet they have to have the highway system. That system, even though it may be complete, must be maintained.

In defense of the formula, there are two ways of doing this. One way, we could do what has been customary in the other body, and that is come out with a group of projects, take care of a certain number of people in the passed bill, and then walk away from it. That would be very easy.

I will tell my colleagues, what would be easy is to go ahead and distribute a bunch of funds to 60 Senators and then sit back and say: The rest of you guys, that is your problem. But we do not do it that way. Instead, in looking at the formula and the factors, it is an incredibly difficult thing we are dealing with. We have factors that have to do with the donor status of the State, the number of miles in the State, the age of the State, the passthrough provisions of the State, and the fatalities per capita of the State. My State of Oklahoma has a higher per capita fatality rate, and therefore one has to come to the conclusion that there is a reason for that. So all of these factors are a part of a very complicated formula.

It may be that people will look at it and say: You do not treat—it is kind of interesting. I will hear from people from the fast growing States who say, We do not get as high as we need to get in our donor status relief, and yet at the same time we hear from some of the Eastern States that are complaining because the floor is too low. So I would think that everyone should realize that there is not going to be a perfect formula that makes everybody happy.

It is a formula that is as fair as we can come up with. We have been working on this for 3 years. This is not something that just came out. When the Senator from Arizona says that last year's bill was guaranteed to raise the donor status floor to 95 percent, that is easy because we had the money to do it. This year, we do not have the money to do it. Even with the amendment that was passed, all that does is raise it from 90.5 percent to 92 percent. It is a very difficult thing.

I do not want to use up an inordinate amount of time, but I will talk about why we have to do this today. The only alternative to passing a bill is to have another extension. If we have another extension, we do not really get into the problem. We do not take care of the donor State rate of return. We do not have any of the new safety core programs. We have literally spent months putting this together. Of course, those provisions were in the Commerce Committee. We need to respond to the deaths on the highways. If we do not pass the bill, we are not going to have any kind of streamlining of environmental reviews. We are not going to have any increase in the ability to use the innovative financing systems which are included.

This bill contains the establishment of a national commission to explore how to fund transportation in the future. As the Senator from Arizona said, 50 years ago we started this system, back during the Eisenhower administration. He recognized there was a problem back when he was Major Eisenhower and he was trying to move goods and services around. He recognized there was a problem, but we have not changed the way we are funding highways for 50 years.

This bill establishes a commission to come up with more innovative ways and allows the States to participate. People are concerned about things such as Safe Routes to School. If we go on an extension instead of a bill, we are not going to have Safe Routes to School. There is uncertainty that is out there. I know my State of Oklahoma is not any different from the rest of the States. We are on our sixth extension now. If we are operating on an extension, it could be a 1-month extension, it could be a 1-year extension.

There is no certainty by which we can plan the construction and maintenance of highways and do something about the bridges. The bridges in Oklahoma are worse than any of the bridges in the Nation. It is a life-and-death situation. People are dying. We have had two deaths in Oklahoma just because of the condition of the bridges. So we are going to have to do something. If we operate on extensions, we are not going to be able to have any of those improvements.

As far as the border program, the States that are complaining about this program are actually border States. They are States that have the benefit of some of the provisions to take care of the borders. NAFTA has been passed, and there is increased road travel. We will not have a borders program if we do not pass a bill. It would just be an extension of the old program.

Lastly, the firewall protection—we need to make sure that people quit robbing the highway trust fund. I was in disagreement with the distinguished chairman of the Budget Committee, and I said the problem we have been having is people are taking money out of the trust fund and using it for purposes to establish and support policies that have nothing to do with transportation. These are the things that concern me.

We want to stay within our timeframe. Before turning to Senator BOND, I guess Senator JEFFORDS is not in the Chamber, so we will turn to Senator BAUCUS. After that, I ask unanimous consent that we stay on this course and first recognize Senator BAUCUS, and that after his completion we recognize Senator BOND for up to 10 minutes.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, it is quite clear, especially based upon the vote on the point of order yesterday where 76 Members of this body voted to waive that point of order indicating their support for this program, that there is not a lot of controversy remaining on this bill. There are important amendments, clearly, that will be offered by Members, but I believe all of us in this body know that this bill must be passed and must be passed quickly. It should be passed today, and it probably will be passed today, both because it is important and also to avoid the May 31 date when current law expires. Hopefully, we will get a conference that will bring back a conference report so we can pass this legislation and send it to the President's desk by that time.

There is one point I wish to make, though. There is some concern that this bill is not fair to every State. We hear this in the committee. We who are managing this bill hear that statement often from a lot of Senators. I understand it. Every Senator is doing what he or she should do, and that is to fight for his or her State. I compliment those Senators. It is our job as managers of the bill and also our job as a body to do the very best we can to be as fair as possible to all concerned and get this legislation passed.

I will say a word or two in defense of the Western States that are large in area but small in population as to why this national highway program is fair to us—I represent the State of Montana—and why it is also fair to some of the more populous States.

We do not have a lot of people in Montana. Our population density is about six people per square mile. There are not very many States with a population density lower than ours. We are

a huge State in area. In fact, the length across our State of Montana is as great as the distance from Washington, DC, to Chicago. It is that far to drive across Montana. In addition, if one were to overlay Montana over the New England States, the State of Montana would include New York and all the other New England States, and also include Pennsylvania. I think it would include about half of New Jersey. So it is a large area but very low in population density. The State of Arizona, for example, has 45 people per square mile. Montana, as I mentioned, has about six people per square mile.

This is a national program. We are trying to get all States included. New Jersey, I might add, has a population density of about 1,100 people per square mile. New York has about 401 people per square mile. Again, Montana has six people per square mile. This is a national highway program. We want Americans to be able to travel freely across all States, the more populated States and also the less populated States. We want our commerce to travel nationwide, for truckers to be able to drive their vehicles across the United States virtually unimpeded. We do not want a situation where some States have the resources to build nice new highways and other States, just because there aren't any people there, do not have the resources to build highways, so it would be an uneven system.

Clearly, not everybody is unhappy. We have done the best we can to make this as balanced as it could possibly be. I think the vote yesterday, while it is not a direct vote, is an indirect indication that most Senators are pretty satisfied. When 76 Senators vote to waive the point of order that was made yesterday, that is a vote in favor of the highway bill. I think that is a pretty good indication this is a fair and balanced bill.

Different States have different State gasoline taxes to help pay for the highways in their States, matching along with the Federal contributions. We in the State of Montana pay a lot also per capita in our contributions to State and Federal highway trust funds, a lot more than most other States. In our State of Montana we spend about $360 per person per year in contributions to the highways. The national average is about $250 per person per year. We in Montana spend $360 per person per year. I point out that the folks in Arizona are actually below the average. The contributions the people in Arizona pay to the highway trust fund, both to the State and Federal highway trust funds, is about $235 per Arizonan per year. That is below the national average.

That is fine. That is a decision in large part the people in Arizona are making because of their State gasoline taxes. But it is also a consequence of a lot of other factors in the formula for the States. The long and short of it is Arizonans pay less than the national average per capita in their contributions to Federal and State highway funds, whereas folks in other States pay much more. Montanans, as I mentioned, pay $360. South Dakotans pay a lot more for highways, more than the national average. People in South Dakota pay about $312 per person. It is interesting—New Yorkers actually are very low. New Yorkers pay only about $152 per person in their contributions to the highways in the State of New York. That is half what it is in some other States.

Everybody can bring out figures and statistics. But I do think, for the sake of equity and fairness, it makes sense to get a good bit of these statistics out in the open, on the record, so we all understand and realize it is not a perfect bill, but it is a bill that by and large accomplishes what it is intended to accomplish—that is provide the resources so we can build and maintain our highways, our mass transit, and some of the other programs affiliated with the highway program.

I thank the chairman, who is doing a great job managing this bill. I also very much thank Senator JEFFORDS, the ranking member of the Environment and Public Works Committee, for excellent leadership. Also I give special thanks to my colleague on the Finance Committee, Senator GRASSLEY. He and I have worked closely together to provide the revenue for this bill and it is basically through gasoline taxes and other excise taxes.

I remind my colleagues this legislation before us does not add to the Federal deficit, not at all. In fact, it reduces the Federal deficit. It reduces the Federal deficits; that is, our national debt, by about $14 billion over 10 years. We reduce the national debt—not by a lot, but we reduce it. We do not add to the debt. We reduce the debt by about $14 billion over 10 years.

Those who are concerned that this is a spending bill, that this bill adds to the national debt and deficit, that is not accurate. As a reminder, this bill does not add at all to Federal deficit, not one dime. It is all paid for.

I know a lot of proposals a lot of Senators have, either to lower taxes or spend money on something, are not paid for. This big highway program is all paid for. It is jobs for America. It is infrastructure for America so we Americans can live the life we want to lead, have the highways we want to have, and compete in the modern world and off in the future with a good highway system.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized.

Mr. INHOFE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Thirteen minutes. The Senator from Missouri.

Mr. BOND. Mr. President, my thanks to the chairman and also to my colleague on the Transportation Infrastructure Subcommittee, the Senator from Montana. As I say, it helps to have a cousin in the business. It helps to have a ranking member who is also ranking on Finance with Senator GRASSLEY. Senator BAUCUS and Senator GRASSLEY have done a great job. It is a pleasure to work with him, with Senator GRASSLEY, Senator JEFFORDS and, of course, our chairman, Senator INHOFE.

I hope everybody has been having as enjoyable a time as those of us who have been trying to lead this bill from the various committees—EPW, Commerce, Finance. I know this is a very pleasurable experience. But the time has come for it to end. It is time for us to invoke cloture. That is why we are asking our colleagues to put an end to this. All good things have to come to a close. If we are to get this bill done, we need to invoke cloture and give it a timeframe. We have already limited the number of amendments.

The simple fact is we have to get this bill to conference. We have to go to work with the House to come up with a very important surface transportation bill, known as SAFETEA, this year. The extension expires in May. We are operating on our sixth extension. The original bill, the last bill, ran out on September 30, 2003. We have had extensions. We have missed the deadline. We absolutely have to get this bill passed.

If the extension expires and we do not do anything, not only does the U.S. Department of Transportation shut down but States would not be able to issue new contracts for summer construction programs on Federal aid highways. We would have a significant economic blow to our country as well as a delay in the building of our necessary roads.

Cloture will enable us to get to conference. It is going to be a very different conference. The House has a measure that is essentially project oriented. As has been stated by my colleagues on both sides of the aisle here, we have attempted to achieve equity by a very complex formula. The Senator from Montana made a very important point. When we came to the floor, we added $11 billion. Why did we do this? The administration's own Department of Transportation puts out annually a conditions and performance report. Even with the $11 billion we added to the base number of $284 billion, according to the administration's own report, it still is not enough money even to maintain our current system. That is why money was added. That is why the Finance Committee was given the authority under the Talent-Stabenow amendment to add money. That is why we waived the point of order—because this money is important.

We heard my good friend, the Senator from Arizona, complaining about adding money, implying it was adding to the deficit. You have already heard that is pure nonsense. There is, as a matter of fact, a positive impact because the Finance Committee has not only added money to the highway trust

fund, but to make sure there was no shortfall in the general revenue sections, they added more general revenue. There is more general revenue coming in than before as a result of this amendment we adopted, and there is more money in the highway trust fund.

Regarding the point made by the Senator from Arizona, if the situation were not so serious, it would be funny. There is nothing like a good joke like having a Senator complaining he is not getting enough money and complaining we added money when adding that money brings the State of Arizona increase from last year's bill to 40.6 percent. They do fantastically well. They are one of the top three winners in the whole bill—top four, and he is complaining we added money.

You know the old story about the boy who kills his parents and when charged with murder he throws himself on the mercy of the court because he is an orphan. You can either complain about not getting enough money or you can complain about having more money added to the bill; you cannot do both at the same time. You have to pick one side of the fence or the other.

This bill does have very important aspects. First and foremost, the economic impact—47,500 jobs are created for every $1 billion spent. That is immediate economic impact. The longer term economic impact of a good transportation bill, as I have pointed out on the floor before—as a former Governor of my State, I know if you want to know where economic growth is going to occur, where jobs are going to grow, you take a look at the transportation system. You have to have good transportation to create good jobs and to have a strong economy.

There are also aspects of this bill, of course, that improve our environment, because we are reducing congestion. We are putting environmental planning at the start of the planning process so we can take care of environmental concerns sooner.

But the real name of this bill is the SAFETEA bill, and safety is probably the most important part of this bill as far as my State is concerned. I have told this body several times of the number of friends I have lost on highways in Missouri. You can travel many national highways, Federal aid highways in Missouri, that are two-lane roads with traffic that merits having four lanes. Do you know what happens when you have a slow-moving livestock truck or piece of equipment, construction equipment or farm equipment, on a narrow two-lane road? Traffic backs up and backs up and somebody—very often a stranger to the area—tries to pull out and pass, with tragic results. We see white crosses marking our highways where people have lost their lives. Unfortunately, the number of those white crosses grows.

The Senator from Arizona has complained about the criteria used in the formula for money going to States that have greater than 1 fatality per 100 million vehicle miles traveled. That is Missouri and it is 17 other States. Actually it is Arizona as well.

If this is a SAFETEA bill, shouldn't you consider safety? I certainly think so. Some of the border State people say we need more money because we are on the borders. I will have a chart this afternoon that shows an interesting point of information. Some of the heaviest traffic—some of the heaviest tie-ups, the bottlenecks—is in the middle of America where East and West, North and South, Southwest and Northeast traffic all come together. When you look at the traffic in trucks on our highways on a U.S. Department of Transportation map, there is a great big artery clog right in the heart of America, in Missouri, in Oklahoma, in Illinois. That is where the traffic is the heaviest. We need a crossroads factor in the formula.

It is not the border States alone that have needs. We in the middle of Nation need that formula. Missouri has the fifth worst roads in the Nation; 65 percent of its roads are in fair to poor condition, requiring immediate repair. Missouri also ranks fourth from the bottom in number of structurally deficient and functionally obsolete bridges.

I say that humbly, knowing that my colleague's—the chairman of the committee—home State of Oklahoma ranks below Missouri.

Yet for all the complaining about how well our States do, we grow at the average rate of 30.40 percent. We grow in that neighborhood. Yet we are at the bottom of the list of worst roads and worst bridges in dangerous condition.

That is why this bill is so important. I urge my colleagues to invoke cloture, and I reserve the remaining time on this side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Minnesota desires.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I salute the chairman and the ranking member for this excellent legislation. I will support a cloture motion.

It is very important we pass this legislation as expeditiously as possible for States such as Minnesota which have a short highway construction season.

I wish we had been able to put into place the Senate version a year ago. I salute Chairman INHOFE for his tireless efforts, working with his associates in the House and also the administration, in an effort to pass what would have been an excellent Senate bill a year ago.

This bill is as good as it could be, given some of the pressures. It is a mystery to me, knowing the serious state of disrepair of our highways in Minnesota and the lack of funding at the State and particularly the local level—it is hard to imagine how any other State could be so far advanced beyond Minnesota's highway construction situation that the money the Senate wanted a year ago, that would be providing for needs this year if not for certain pressures—and is beyond the realm of common sense not to have passed this. So be it.

I thank the chairman and the ranking member for, as I understand it, accepting an amendment I offered, along with Senator LUGAR, also cosponsored by my colleague from Minnesota, Senator COLEMAN, Senator HARKIN, Senator GRASSLEY, Senator DURBIN, Senator BROWNBACK, and Senator BINGAMAN. It is a simple amendment that calls for cars produced starting the model year of 2007 to have a sticker in two different locations indicating the presence of a flexible fuel engine that allows a car or other gasoline-consuming vehicle to use regular gasoline or up to 85-percent ethanol, which in Minnesota is called E–85 which is 85-percent ethanol, 15-percent regular unleaded and is used as a substitute for regular unleaded gasoline in vehicles that have these flexible fuel engines.

I have two cars, factory-produced Ford Explorers—one in Washington, DC, where unfortunately I cannot find the fuel, and one in Minnesota, where I can—which are as efficient as my previous vehicles using regular gasoline, and presently in Minnesota between 30 and 40 cents a gallon cheaper than regular unleaded.

Consumers will use this fuel as a lower cost alternative if they have cars or vehicles that can use it, which is why I have another amendment to offer to the Energy bill that requires vehicles produced starting model year 2007 or thereafter to all carry a flexible fuel engine so consumers have this lower cost option. At least those who buy these vehicles will be aware they have a flexible fuel engine and can take advantage of this much lower cost fuel.

This amendment is supported by the National Ethanol Vehicle Association, by the National Corn Growers Association, by the Governors Ethanol Coalition which Governor Pawlenty from Minnesota chairs, the Renewable Fuels Association, National Farmers Union. The automakers are neutral to it.

I thank the Chair and ranking member for accepting it and hope it will be enacted soon.

I ask unanimous consent Senator BROWNBACK be added as a cosponsor to the Lugar Dayton amendment.

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

Mr. DAYTON. 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.

AMENDMENTS NOS. 574, 598, 624 AS MODIFIED, 628, 634 AS MODIFIED, 643, 670 AS MODIFIED, 681 AS MODIFIED, 621, 622, 666 AS MODIFIED, 685, 694, 705 AS MODIFIED, 708 AS MODIFIED, 713 AS MODIFIED, 737, 725, 726 AS MODIFIED, AND 755 TO AMENDMENT NO. 725

Mr. INHOFE. Mr. President, I have a series of amendments that have been cleared on both sides. I ask unanimous consent the pending amendments be set aside provided, further, that the list of amendments I have sent to the desk, including modifications to some of those amendments, be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the amendments be printed in the RECORD.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 574

(Purpose: To allow States to own the entire interest of a real estate investment trust without tax consequences in order to assist the State in preserving its railroad infrastructure, and for other purposes)

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.

AMENDMENT NO. 598

(Purpose: To provide a 90 percent Federal match for bridge projects on the Interstate Highway System)

In section 120(a)(1) of title 23, United States Code (as amended by section 1301), insert ''a bridge project or'' before ''a project to add''.

In section 144 of title 23, United States Code (as amended by section 1807(a)(9)), strike subsection (r) and insert the following:

''(r) FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided under paragraph (2), 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 section 120(d).

''(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be the share applicable under section 120(a).''.

AMENDMENT NO. 624, AS MODIFIED

At the end of subtitle H of title I, add the following:

SEC. 18___. ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Highway Administration.

(2) CITY.—The term ''City'' means the city of Seattle, Washington.

(3) EARTHQUAKE.—The term ''earthquake'' means the Nisqually earthquake of 2001.

(4) FUND.—The term ''Fund'' means the emergency fund authorized under section 125 of title 23, United States Code.

(5) STATE.—The term ''State'' means the Washington State Department of Transportation.

(6) VIADUCT.—The term ''Viaduct'' means the Alaska Way Viaduct.

(c) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

AMENDMENT NO. 628

(Purpose: To reestablish the University of Buffalo as an appropriate research center for research on the impact of seismic activity on the Federal-aid highway system)

On page 439, line 3, insert ''and the National Center for Earthquake Engineering Research at the University of Buffalo,'' after ''Reno,''.

AMENDMENT NO. 634, AS MODIFIED

After Sec. 7260 of title VII:

SEC. 1623. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) IN GENERAL.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

''(e) IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

''(1) a permanent label inside the automobile's fuel door compartment that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

''(2) a temporary label to the window or windshield of the automobile that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) identifies the automobile as capable of operating on such alternative fuel.''.

(b) REGULATIONS.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) COMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) MODEL YEAR DEFINED.—In this subsection, the term ''model year'' shall have the meaning given such term in section 32901(a) of such title.

(d) VIOLATIONS.—

(1) IN GENERAL.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting ''or (e)'' after ''subsection (b)''.

(2) CONFORMING AMENDMENT.—Section 32911(a) of such title is amended by inserting ''32908(e),'' after ''32908(b),''.

AMENDMENT NO. 643

(Purpose: To establish the Federal share of the cost of constructing a bridge in the State of North Dakota)

On page 410, between lines 7 and 8, insert the following:

SEC. ____. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

AMENDMENT NO. 670, AS MODIFIED

On page 635, between lines 3 and 4, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, CNG, LNG, LPG and hydrogen.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

AMENDMENT NO. 681, AS MODIFIED

Beginning on page 267, strike line 18 and all that follows through page 270, line 15 and insert the following:

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;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies that are—

''(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(II) funded, in whole or in part, under this title; or

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(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.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

''(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

''(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

''(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(B) funded, in whole or in part, under this title.

''(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

''(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

''(B) shall—

''(i) consider guidance issued by the Administrator under paragraph (5);

''(ii) limit technologies to those identified by the Administrator under paragraph (5);

''(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

''(iv) give special consideration to small businesses that participate in projects funded under this title;

''(v) place priority on the use of—

''(I) diesel retrofit technologies and activities;

''(II) cost-effective strategies;

''(III) financial incentives using CMAQ resources and State resources; and

''(IV) strategies that maximize health benefits; and

''(vi) not include any activities prohibited by paragraph (4).

''(4) STATE LIMITATIONS.—Emission reduction strategies may not—

''(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

''(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

''(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

''(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

''(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

''(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

''(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

''(D) options and recommendations for the structure and content of emission reduction strategies including—

''(i) emission reduction performance criteria;

''(ii) financial incentives that use CMAQ resources and State resources;

''(iii) procedures to facilitate access by contractors to financial incentives;

''(iv) contract incentives, allowances, and procedures;

''(v) methods of voluntary emission reductions; and

''(vi) other means that may be employed to reduce emissions from construction activities; and

''(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

''(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

AMENDMENT NO. 621

(Purpose: To provide for the conduct of a community enhancement study)

At the end of subtitle H of title I, add the following:

SEC. 18 ___. COMMUNITY ENHANCEMENT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) CONTENTS.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety; and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future; and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) ADMINISTRATION.—

(1) IN GENERAL.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) FEDERAL SHARE.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) REPORT.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) AUTHORIZATION.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

AMENDMENT NO. 622

(Purpose: To provide for the development of a comprehensive coastal evacuation plan)

At the end of subtitle H of title I, add the following:

SEC. ___. COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the ''Secretaries'') shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b) CONSULTATION.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) CONTENTS.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) REPORT AND UPDATES.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

AMENDMENT NO. 666, AS MODIFIED

(Purpose: To improve the high-speed magnetic levitation system deployment program)

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

''(A) is not a State-designated authority; but

''(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

''(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

''(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

''(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed MAGLEV project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the MAGLEV project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

''(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) and the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $6,000,000 for fiscal year 2005; and

''(II) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $25,000,000 for fiscal year 2005;

''(II) $37,000,000 for fiscal year 2006;

''(III) $21,000,000 for fiscal year 2007; and

''(IV) $9,000,000 for each of fiscal years 2008 and 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $500,000,000 for fiscal year 2005;

''(II) $650,000,000 for fiscal year 2006;

''(III) $850,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $600,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $13,000,000 for fiscal year 2005;

''(II) $16,000,000 for fiscal year 2006;

''(III) $8,000,000 for fiscal year 2007; and

''(IV) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

''(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

AMENDMENT NO. 685

(Purpose: To increase an amount made available for the Alaska Highway System)

On page 50, strike lines 16 through 18, and insert the following:

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''$18,800,000 for each of fiscal years 1998 through 2002'' and inserting ''$30,000,000 for each of fiscal years 2005 through 2009''.

AMENDMENT NO. 694

(Purpose: To provide for an off-system bridges pilot program)

On page 353, strike lines 6 and 7 and insert the following:

Secretary determines that the State has inadequate needs to justify the expenditure.

''(C) PILOT PROGRAM.—Not less than 20 percent of the amount apportioned to the States of Colorado, _____, and _____, for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.'';

AMENDMENT NO. 705, AS MODIFIED

On page 270, after line 15, add the following:

(d) In addition to other eligible uses, the State of Maine may use funds apportioned under section 104(b)(2) to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

AMENDMENT NO. 708, AS MODIFIED

On page 40, strike lines 16 through 20 and insert the following:

authority has not lapsed or been used;

(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); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

On page 60, between lines 14 and 15, insert the following:

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term ''eligible funds'' means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term ''eligible funds'' includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term ''excess funds'' means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term ''inactive funds'' means—

(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

AMENDMENT NO. 713, AS MODIFIED

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

AMENDMENT NO. 737

(Purpose: To improve the bill)

On page 38, line 8, strike ''$9,386,289'' and insert ''$8,386,289''.

On page 327, line 18, strike ''under section 204''.

On page 417, line 24, strike ''209'' and insert ''2009''.

On page 418, line 13, strike ''$2,000,000'' and insert ''$3,000,000''.

On page 558, line 17, insert ''and Boating'' before ''Trust''.

On page 558, line 23, strike ''2004'' and insert ''2005''.

On page 633, line 15, strike ''by all States''.

On page 652, line 23, strike ''Section'' and insert ''(a) IN GENERAL.—Section''.

On page 653, between lines 8 and 9, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

On page 807, after line 16, insert the following:

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

On page 872, strike line 24, and insert the following:

tives.

''(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.''.

On page 900, line 18, strike ''and''.

On page 900, line 22, strike the period and insert ''; and''.

On page 900, after line 22, insert the following:

(5) by adding at the end the following:

''(1) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.''.

On page 944, after line 21, insert the following:

SEC.___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC.___. FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

''(A) $10,400,000 shall be available in fiscal year 2005 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;

''(B) $15,000,000 shall be available in each of fiscal years 2006 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; and

''(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.''.

On page 1291, strike lines 12 through 16 and insert the following:

(1) For fiscal year 2005, $7,646,336,000.

(2) For fiscal year 2006, $8,900,000,000.

(3) For fiscal year 2007, $9,267,464,000.

(4) For fiscal year 2008, $10,050,700,000.

(5) For fiscal year 2009, $10,686,500,000.

AMENDMENT NO. 725

(Purpose: To provide for the construction of improvements to streets and roads providing access to State Route 28 in the State of Pennsylvania)

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting '', and improvements to streets and roads providing access to,'' after ''along''.

AMENDMENT NO. 726, AS MODIFIED

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term ''clean school bus'' means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''eligible recipient'' means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term ''retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses;

(ii) to install retrofit technologies; and

(iii) to purchase and use alternative fuel.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

AMENDMENT NO. 755 TO AMENDMENT NO. 725

(Purpose: To reprogram funds made available for Interstate Route 75 and North Down River Road, Michigan)

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking ''Conduct'' and all that follows through ''interchange'' and inserting ''Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area''.

AMENDMENT NO. 670, AS MODIFIED

Mr. OBAMA. Mr. President, we have all heard from folks back home about the high price of gasoline. When you pull into a gas station to fill up your tank, you're now paying some of the highest prices of all time.

This amendment is designed to do something about that—by promoting a choice at the pump that will allow consumers to choose a fuel that today is 50 cents per gallon cheaper than regular gasoline.

That's why I would like to thank the chairman of the Finance Committee, Senator GRASSLEY, and the ranking member of the Committee, Senator BAUCUS, for their advocacy of this amendment. I also want to thank the manager of the transportation bill, Chairman INHOFE, for working with us on this proposal. These Senate leaders are all committed to addressing high gas prices, and their work on this amendment is an example of that commitment.

I would like to thank my fellow authors of this amendment, Senator TALENT, as well as my distinguished colleague from Illinois, Senator DURBIN, for their hard work in getting this provision passed. And I thank the cosponsors of this amendment, also longtime supporters of ethanol, Senators LUGAR,

HARKIN, BAYH, COLEMAN, SALAZAR, DAYTON, and NELSON of Nebraska.

And of course, I would like to thank the excellent staff work of Elizabeth Paris, Matt Jones, and Russ Sullivan on behalf of this provision.

I am sure many of us in this Chamber, and many watching these proceedings, would jump at the chance to fill our cars and trucks with fuel that is 50 cents cheaper than current prices. What many consumers may not know is that that option is available today. It is known as E–85, a fuel comprised of 85 percent ethanol. And I suspect most Americans would agree that a fuel made of 85 percent Midwestern corn is a lot more desirable than one made from 100 percent Middle Eastern oil.

Right now, there are millions of cars and trucks that can run on E–85. They are known as ''flexible fuel vehicles,'' and the auto industry is turning out hundreds of thousands of them every year. These cars and trucks aren't more expensive to operate than regular cars—in fact, for just a one-hundred-dollar adjustment, even regular cars could run on E–85. And if E–85 is good enough for the Indianapolis 500—which just announced their cars will run on this fuel—then you can be sure that E–85 will work great in a flexible fuel vehicle.

The only problem now is our short supply of E–85 fuel stations. While there are more than 180,000 gas stations all over America, only about 400 offer E–85.

The amendment adopted by the Senate today addresses this problem by providing a tax credit to encourage the installation of more E–85 fuel pumps at your local gas station. Its enactment will not only give motorists another option at the pump, it will also send a clear message that the U.S. Senate is serious about reducing our country's dangerous dependence on imported oil.

Again, I thank my colleagues who have worked to adopt this amendment to help make America energy independent.

Mr. INHOFE. 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. I ask unanimous consent the two live quorums be waived.

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

Mr. INHOFE. All time is yielded back.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute 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, J.M. Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thane, Bob Bennett, George Allen, Mitch McConnell.

The PRESIDING OFFICER. The mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 605 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRASSLEY. Mr. President, I want to respond to the distinguished Chairman of the Budget Committee. Yesterday afternoon, my colleague responded to my defense of the merits of the Finance Committee title in Chairman INHOFE's substitute.

Since Chairman GREGG's response came shortly before the session ended last night, I am responding this morning.

I respect Chairman GREGG's efforts in his initial year as chairman of the Budget Committee. I congratulate him now as I have in the past on his victory in achieving a budget resolution. I was proud to support him in committee, on the floor, and in conference on the resolution.

As a senior member of the Budget Committee, I take its role seriously. I respect the Budget Act and the importance of the tools of fiscal discipline that points of order and other enforcement devices bring to the legislative process. I also respect the key role of the Budget Committee chairman and his staff under the Budget Act.

A careful and fair review of my statement will show that it is consistent with these long-held views. My statement did not claim that there was no valid Budget Act point of order against the Finance title of the Inhofe substitute. My statement did not question the authority of the Budget Committee chairman in raising the point order.

My statement responded to several very specific assertions against the Finance Committee title. One assertion, made quite passionately by Chairman GREGG, was that the Finance Committee amendment was a product of accounting gimmicks. Another assertion was that the amendment was not offset. I responded to the two main assertions ad relied on the Congress' official tax policy scorekeepter, the Joint Committee on Taxation. Chairman GREGG is right that, under the Budget Act, it is the Chairman Budget Committee chairman that the Senate parliamentarian looks to determine whether a point of order is well-founded. The Joint Committee on Taxation, however, determines the scoring of revenue measures.

I will not go into the other points of disagreement in our statements because the statements speak for themselves.

In sum and substance, my statement defended the Finance Committee title on its scoring by the Joint Committee. My statement did not dispute that the amendment spending level was above those contemplated by the Budget Resolution or the spending level agreed to by the administration and congressional Republican leadership. Of course, Finance Committee jurisdiction extends only to the cash flow of the Highway Trust Fund. The Finance Committee title added additional cash inflow, trust fund receipts, and additional cash outflow, trust fund outlays. The Finance Committee title balances additional trust fund receipts and outlays. That was the job we were asked to do and we did it in a fiscally responsible manner.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

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

The yeas and nays resulted—yeas 92, nays 7, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—92

Akaka	DeWine	Lugar
Alexander	Dodd	McConnell
Allard	Dole	Mikulski
Allen	Domenici	Murkowski
Baucus	Dorgan	Murray
Bayh	Durbin	Nelson (FL)
Bennett	Ensign	Nelson (NE)
Biden	Enzi	Obama
Bingaman	Feingold	Pryor
Bond	Feinstein	Reed
Boxer	Frist	Reid
Brownback	Graham	Roberts
Bunning	Grassley	Rockefeller
Burns	Hagel	Salazar
Burr	Harkin	Sarbanes
Byrd	Hatch	Schumer
Cantwell	Inhofe	Sessions
Carper	Inouye	Shelby
Chafee	Isakson	Smith
Chambliss	Jeffords	Snowe
Clinton	Johnson	Specter
Coburn	Kennedy	Stabenow
Cochran	Kerry	Stevens
Coleman	Kohl	Talent
Collins	Landrieu	Thomas
Conrad	Lautenberg	Thune
Corzine	Leahy	Vitter
Craig	Levin	Voinovich
Crapo	Lieberman	Warner
Dayton	Lincoln	Wyden
DeMint	Lott	

NAYS—7

Cornyn	Kyl	Sununu
Gregg	Martinez	
Hutchison	McCain	

NOT VOTING—1

Santorum

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank those who voted the right way to come to a conclusion on this bill. This is likely the most important bill we will deal with this entire year. Right now we have a distressingly large number of

amendments out there that are germane that people could come and offer. We are not going to have enough time to do it. As is usually the case, there are many out there who are not serious about their amendments. It is currently being hotlined to try to find out who is serious and who is not. I am going to be talking to individuals, but I would say, if you are serious about your amendment, and you want it considered, bring it to the floor. I am sure I speak on behalf of Senator JEFFORDS as well. We want these amendments brought to the floor, and we also want to know how many are out there that may not be serious amendments.

Mr. JEFFORDS. Mr. President, I agree with the Senator. Please, everyone, expedite.

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

Mr. INHOFE. I yield.

Mr. BYRD. I have an amendment. I would like to offer it at a time when it would be mutually agreeable to the managers.

Mr. INHOFE. I suggest that it is mutually agreeable to send it to the desk and that it be considered.

Mr. BYRD. Very well. I will get my amendment, if the two managers will consent that I be recognized to offer it.

Mr. INHOFE. Yes.

Mr. BYRD. Mr. President, I will very shortly. In the meantime, might 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, I will shortly call up an amendment. Before doing so, I would like to recall a statement by the late Reverend Peter Marshall, possibly, even probably, the most famous and well known of the Senate chaplains, who offered this prayer at the opening of the second session of the 80th Congress:

> Let us not be content to wait and see what will happen, but give us the determination to make the right things happen.

Sometimes we can do that, sometimes we can't, but at least we can try. For too many months now, the Congress and the administration have taken a ''wait and see'' approach when it comes to today's life-altering price of gasoline.

The administration has pinned its rhetoric to an energy plan, waiting and hoping to tout a reduced dependence on foreign oil, while conceding that no energy plan will provide immediate relief to high prices at the pump.

The American people have waited and have waited and have waited for the United States to get tough on OPEC and other nations responsible for the recent spike in gasoline prices. Their elected leaders offer explanations and more explanations and still more explanations and equivocations about why such action has not reduced prices at the pump.

The American people are out there listening and they are watching; they see what is going on here on the Senate floor. They watch us through those electronic lenses behind the Chair, the Presiding Officer. The American people waited anxiously for the President's prime-time news conference, hoping to see at last that somebody would proffer some kind of relief from high gas prices. My, how they do hurt. How they do pinch, don't they? Yes. Ultimately, the American people were disappointed as their pleas for relief were again rebuffed. The people have waited, they have waited, they have waited, and they are still waiting. They waited while gas prices have gone up and up and up. The patience of the American people is running out. When will it end?

The American people watched incredulously as the House of Representatives passed an energy bill last month, including $8 billion of energy tax cuts. These are tax cuts for many of the corporate conglomerates who are enjoying record-breaking profits from today's oil prices. Yet the Congress declines—it declines, it declines, and it declines again and again—to provide relief to the workers who must bear the brunt of these price spikes at the pump. I am talking about the working people of America, people whose hands are soiled with honest toil, the working people in America. They are in South Carolina, North Carolina, and West Virginia.

While the big oil companies are making big money, hand over fist, from high gas prices, the only relief the Congress has seen fit to provide is to the very oil companies—not the people—making all the money. They are making all the money.

The irony is incredible, but not only is it incredible, it is contemptible. It is the little guy who is getting the shaft because we refuse to stand up for him or her. Well, the time has come to take a stand. This Congress continues to ignore the working man and the single mother. There are lots of them out there and they have to go through this every day when they drive up to the pumps. Think of them. Who is here to take a stand for them—the little guys? There are lots of them out there. The little guy is getting the shaft because we refuse to stand up for him. Again, this Congress continues to ignore the working man and the single mother. This administration continues to ignore the working man and the single mother, and it continues to ignore the outdoorsman who can no longer afford to fill up his pickup truck or SUV for a weekend of work—yes, they even work on the Sabbath; they have to sometimes—or for a weekend of hunting and fishing.

If the Congress cannot wave a magic wand to lower prices at the pump—and it cannot—at least we can provide short-term relief to compensate workers, and that relief ought not be delayed. We have those workers in Texas, we have them in Oklahoma, and we have them in West Virginia. I talk with them every day. The time has come; the clock is moving. Relief ought not be delayed. The time has come for the Congress to take action. We must take action. We have heard that television statement: Do it now, do it here.

I addressed the Senate last month about this issue, highlighting the impact that high gas prices have had on rural States such as mine, rural States such as New Hampshire. Yes, there are rural areas all over this country.

When gas prices soar, the impact on rural families can be devastating and can be cruel. In my State of West Virginia, the impact has been brutal. It saps the economic strength of the State. It squeezes anybody who owns a vehicle, and it chips away at the income of workers who must commute. They have to commute, there is no way around it. Think of those mountains, those stately, majestic mountains in New Hampshire, West Virginia, and Tennessee. It chips away at the income of workers who have to commute to and from and across and in between those mountains. Households must curtail essentials, and families must do without other things. They have to get that gasoline, they have to get to work, they have to get that bread and butter on the table. Businesses lose customers. Think about that. I was once in a small business. I was once a small, small businessman. I know what it is. You have to meet a one or two or three-person payroll. And business includes customers. As the pocketbook strings tighten more and more, profits decrease, operating expenses sore, workers' paychecks suffer more and more.

Residents of rural States must drive longer distances to and from work, inflicting burdensome costs on commuters. I am talking about the States of Virginia, Georgia, New Hampshire, as well as West Virginia—not just West Virginia.

Rural States have less access to public transportation. What does that mean? That means subways and buses and car pooling are not usually available to rural commuters. I am talking about the States of South Carolina; Kansas; Iowa, where the tall corn grows; Oklahoma, as well as West Virginia. Not just West Virginia. Hear me now, it is not just West Virginia. In Appalachia—13 States are in Appalachia. West Virginia is the only one wholly in Appalachia.

In Appalachia, rural roads, twisting and winding and bending around the hills and mountains, exacerbate the financial pain. I am talking about the States of Tennessee, Kentucky, Mississippi, yes, as well as West Virginia. Not just West Virginia; other States as well.

When gas prices spike, rural commuters often have no disposable income to absorb the price flux. What

does this do? It forces painful cuts in essential expenditures. I am talking about the States of Idaho, North Carolina—where I was born—Ohio, South Dakota, as well as West Virginia. So it is not just West Virginia.

The people of these States and all across America, all across the Great Plains and the prairies, the mountains, the Ozarks, the Rocky Mountains, all throughout the land, people in these States are crying out for action by Congress. So today I offer an amendment to answer that call. We hear you, we should say. Yes, we hear you. So I have an amendment that says we hear you.

My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week to and from work. Isn't that a reasonable approach, a temporary $500 tax credit for commuters who travel 250 miles per week, and many of them travel more than that? Oh, yes. But we put a limit on it, for commuters who travel 250 miles. If you travel 240 miles, that is not enough. So we try to be very reasonable.

Why shouldn't a man or woman who travels 240 miles a week be helped, too? We know how difficult it is to move legislatively. I have only been in this Chamber 47 years, 47 years looking around these walls. ''Novus ordo seclorum,'' it says on that wall, ''a new order for the ages.'' And ''in God we trust.'' ''In God we trust.'' I have seen these walls for 47 years. Yes, I came over from the other body where I used to say: Thank God for the Senate. I never thought of coming over here to change the Senate rules to make us another House of Representatives. No, I said thank God for the Senate.

Here we are. My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week. What does that amount to per day? Mr. President, $50 for a 5-day week; is that what it is? It is $50 a day for a 5-day week. The credit would be available in rural, low-income States where public transportation is not readily available. Go down to Welch, WV. Travel into the hills and mountains of New Hampshire. The credit would be available in rural, low-income States where public transportation is not readily available. The credit would be limited to the tax year 2005, 1 year, and it fits within the congressional budget so as not to worsen projected deficits. That is reasonable, isn't it? This is not a complicated proposal. The arguments in favor of providing relief to workers is obvious, having been made by Members of Congress and the administration for many months now. So we put off action day to day, month to month, year to year, waiting for supposed long-term solutions to take effect while we are recreant, while we refuse to provide relief for the immediate hardship.

Let us not delay any longer. Let us not equivocate about economic theories that clearly are working to the detriment of the American workers. Now is the time, and it may be the only time, to vote to provide relief from high gas prices. Now is the time to vote to recognize the plight of workers at the gas pump.

Oh, they say, well, this amendment may not be germane. Oh, this would set a precedent. What is wrong with that? How are precedents set? What is a precedent, if it isn't something new, if it isn't something that goes against the grain of something that has gone before? That is how we get precedents. I have seen many precedents set in this Senate, so do not come here with that argument. I do not know, the Chair may rule this amendment is not germane. I suppose someone might even ask the Chair.

Now is the time to provide relief, a vote to forgo a policy of wait and see. It is time to show determination in making the right things happen.

AMENDMENT NO. 635 TO AMENDMENT NO. 605

(Purpose: To amend the Internal Revenue Code of 1986 to allow a credit for rural commuters)

Mr. BYRD. Mr. President, I call up my amendment No. 635 and ask that the clerk read the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

Mr. BYRD. I make that consent request, Mr. President. I thank the Chair.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 635:

At the appropriate place, insert the following:

SEC. ___. TAX CREDIT FOR RURAL COMMUTERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

''SEC. 25C. RURAL COMMUTER CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible commuter, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500.

''(b) ELIGIBLE COMMUTER.—For purposes of this section:

''(1) IN GENERAL.—The term 'eligible commuter' means an individual who, during the taxable year—

''(A) resides in an eligible State,

''(B) drives an average of more than 250 miles per week for purposes of commuting to and from any location related to the employment of such individual, and

''(C) has an adjusted gross income of less than—

''(i) in the case of a joint return, $100,000,

''(ii) in the case of a head of household return, $75,000, and

''(iii) in any other case, $50,000.

''(2) ELIGIBLE STATE.—

''(A) IN GENERAL.—The term 'eligible State' means any State with respect to which—

''(i) the percentage of the population residing in urban areas is less than the national average,

''(ii) the disposable personal income per capita is less than 114 percent of the national average, and

''(iii) the use of public transportation by the population for the purpose of commuting to and from work is less than the national average.

''(B) DETERMINATION OF ELIGIBLE STATES.—The Secretary shall determine which States are eligible States under subparagraph (A) based on the most recent data available from the Bureau of the Census.

''(3) STATE.—The term 'State' means the 50 States of the United States.

''(c) TERMINATION.—This section shall not apply to any taxpayer for any taxable year beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENT.—The table of section for subpart A of part IV of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Rural commuter credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I commend the Senator from West Virginia for what he is attempting to do for rural America. That happens to be me, rural America. I am certainly in sympathy with this issue. The problem I think is going to be the cost. The cost is somewhere around $5 billion. Since this affects the finance title of the bill, I am looking to see if Senator BAUCUS and Senator GRASSLEY can come by and visit a little bit. If the Senator would like to continue explaining his amendment, or we could try to get hold of the two Senators from the Finance Committee.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. INHOFE. Yes.

Mr. BYRD. I will yield to the good judgment of the managers of the bill. If you would like to wait until the arrival of those two Senators, that is fine for me. May I take this moment to congratulate him and congratulate his comanager sitting by my side, the very distinguished Senator from New Hampshire. Mr. President, you are doing your duty, I say, speaking in the second person, which I am not supposed to do in the Senate. I hope they will come to the floor and make themselves heard.

Mr. INHOFE. Mr. President, I appreciate that and will wait until we have an opportunity to speak to those managing the finance title of the bill. That being the case, let me renew our invitation for people to bring their amendments to the floor. Right now we have hotlined trying to determine who is serious about his or her amendment. We have a lot to get done. The sooner anyone who has an amendment gets down here for the consideration of that amendment, it will be very helpful.

Mr. BYRD. Will the Senator yield for a correction?

Mr. INHOFE. Yes.

Mr. BYRD. I have done what Senators sometimes do. They make a mistake. They have done it to me, too, in referring to a Senator's State as a wrong State. Sometimes they say I am from the State of Virginia. I count that as a great compliment, but I am from the great State of West Virginia.

In this case, I have mistakenly referred to the distinguished Senator from Vermont as the Senator from New Hampshire, both great States. I am talking about the Senator from Vermont. I believe I referred to him as the Senator from New Hampshire. OK, the Senator from Vermont. I correct the RECORD.

Mr. INHOFE. Mr. President, I will just observe that they have covered bridges in both New Hampshire and Vermont.

Mr. BYRD. And West Virginia.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, can I have the attention of the Senator from West Virginia, please. The Senator from West Virginia does not need to respond to this, but I just want to make sure. First, I rise because about 6 o'clock yesterday afternoon, I promised the Senator from West Virginia that I would get back with him and hopefully have Senator BAUCUS with me to discuss whether we could go along with his amendment.

I got the amendment over to my staff, as I promised I would, about that time, but it was 9:30 this morning before I was able to get the two staffs together. I never did get together with Senator BAUCUS so I could come over and visit with the Senator personally about it.

We have found a cost argument, not an argument against the Senator's point of view on the substance of his amendment, but it is my responsibility as chairman of the Senate Finance Committee to find offset. Now, I do not say this to denigrate the Senator's efforts—the Senator does not have to worry about offsets; that is my job—but if I were going to go along with the amendment of the Senator, I would have the responsibility to find an offset.

So I apologize, first, for not getting back to the Senator as I promised I would last night. But based upon some of the arguments that Mr. INHOFE gave but more importantly related to the work of my committee—and I cannot speak for Senator BAUCUS, but I think there is an agreement among our staff, and I do not want to put a figure on it without having the Joint Tax Committee actually score something, but this is a tremendously expensive amendment, not that it is not justified.

I would have to come up with a fairly large figure that my staff tells me would be close to what we have already raised to bring more money into the transportation fund so that we can get more money for the Senator's State and my State, and more money even for the transit that is a basis for the Senator's argument because he does not have the mass transit—and we do not have the mass transit in Iowa as well, so Iowans would benefit from the Senator's amendment. But I just cannot find that money, and it would detract from all the money we previously had raised.

I do not know what the course of action is, but I would have to take the position of advising people not to vote for the Senator's amendment.

Mr. BYRD. Mr. President, would the Senator yield?

Mr. GRASSLEY. Yes.

Mr. BYRD. Mr. President, I respect the very able Senator for the position he has taken. I can understand that position, and I appreciate it. I have discussed this with the Senator. I do not have a suggestion for an offset. I commend the Senator and Senator BAUCUS on what they have jointly done to advance this bill and what they have jointly done to increase the amounts of money available. I understand completely the Senator's position. I do not blame him for it. He states it correctly, but I will say that the amendment does not worsen projected deficits. The amendment fits within the congressional budget. That is why it is not subject to any budget points of order. Deficit projections within the congressional budget will not worsen if this amendment passes.

I do respect the Senator. I know we are both in sympathy with what the people in the mountains, the prairies, the plains, and valleys of this great country have to deal with. I am sorry that the amendment is not germane. I understand that. At least I do not think it is. Perhaps the Senator would like to have a ruling from the Chair. I would hope the Chair would say that the amendment would be germane.

I thank the Senator.

Mr. GRASSLEY. Mr. President, I am not going to raise any more issues. I have expressed why I cannot support the amendment, and I will reserve any other action at the time we vote. I thank the Senator from West Virginia for being understanding of why I did not get back to him.

Mr. BYRD. I thank the Senator.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, I once again want to persuade my Republican colleagues that the so-called nuclear option to break the Senate rules regarding judicial nominations is unnecessary and unwise. Earlier this week, I came to the floor of the Senate and offered to enter into a unanimous consent agreement that will allow an up-or-down vote on controversial nominee Thomas Griffith to the DC Court of Appeals.

We have confirmed 208 of President Bush's nominations to the Federal court, but this record near 100 percent is enough, and the Republican leaders have brought us to the brink of a nuclear showdown. There will be a lot of nuclear fallout if this happens, which would be bad for the Senate and bad for the country.

As I said on the Senate floor earlier this week, Democrats understand the meaning of checks and balances and our constitutional role in ensuring a fair and independent judiciary. We know the difference between opposing nominees and blocking nominees. We will oppose bad nominees, but we will only block unacceptable nominees. Unfortunately, my effort to demonstrate good faith to this point has been rejected.

My statement earlier this week was immediately rejected. The distinguished majority leader, my friend, has indicated that the Senate would not be allowed to vote on Griffith unless Senate Democrats agree to an up-or-down vote on all judicial nominees. What that means is the majority leader will not compromise unless Democrats agree to give up the last check in Washington against abuse of power: the right for extended debate. This is not about seven radical judges. In some people's minds, it is paving the way to the Supreme Court.

Our position is clear: Let us find common ground and confirm judges. Their position appears to be: Let us threaten to break the rules until we get everything we want.

Let us find common ground to confirm judges. That does not mean everybody. If we cannot find compromise, as I said 2 days ago, then we have to vote. We will fight to protect the Nation's constitutional system of checks and balances and depend on Republicans of good will who serve in the Senate who do not want to break the rules to change the rules. That is what the people sent us to do, and we will live up to our responsibility to the American people.

Today, I want to try to do what my Republican colleagues say they want to do, and that is confirm Federal judges. Today, I am prepared to enter into an agreement that would be in respect to two and possibly three nominees to the Sixth Circuit Court of Appeals, which has had tremendous problems for going on 13 years. David McKeague, Robert Griffin, and likely Susan Neilson, Sixth Circuit nominees from Michigan, have been caught up in a dispute that began when the Republican Senate failed to vote on either of the two eminently qualified women President Clinton had nominated to the Michigan seats on that court: Helene White and Kathleen McCree Lewis.

Helene White is a distinguished judge on the Michigan Court of Appeals. Her nomination was pending in the Senate Judiciary Committee for more than 4 years—I repeat, more than 4 years. Kathleen McCree Lewis is a highly regarded appellate litigator at a prominent Detroit law firm. Her nomination was pending for more than a year.

Despite their outstanding qualifications, both of these nominees, along

with over 60 other Clinton nominees, were buried in the Republican-controlled Judiciary Committee. They were never given the courtesy of consideration by the Judiciary Committee, not even a hearing, much less the courtesy of an up-or-down vote by the full Senate.

It seems as if each day a Republican Senator comes to the floor and says that every judicial nominee is entitled to an up-or-down vote on the Senate floor. I challenge these Senators to explain why Helene White, Kathleen Lewis, and 67 others were denied up-or-down votes on the Senate floor.

I have said that what was done in the last 12 years let us put behind us. The 69 Clinton nominees and the 10 Bush nominees, let us put them behind us and go forward. We have a new Congress. We have new leaders, at least two new leaders, Senator DURBIN and I, and we have a number of new Senators. Let us move forward on a new note.

The failure of the Senate to confirm these two outstanding Clinton nominees meant that there were vacancies on the Sixth Circuit when President Bush took office more than 4 years ago. President Bush nominated candidates to fill those unjustified vacancies, and as other judges have left the court, the President has eventually sent four Sixth Circuit nominees to the Senate. In light of the shameful treatment of President Clinton's Sixth Circuit nominees, Senators LEVIN and STABENOW objected to the Bush nominees to this court, and three of them were filibustered in the last Congress. They were determined that the GOP tactic of denying hearings and votes to qualified nominees should not succeed.

I have talked about these on the Senate floor earlier. These were procedural objections. It had nothing to do with the qualifications of two of these Sixth Circuit nominees.

I supported the two Senators from Michigan. They have been fighting a grave injustice that has been perpetrated on White and Lewis. They have been fighting for the principle of fair treatment. I and all Democrats have been proud to stand with them in that fight.

Now with the Senate facing the threat of a nuclear option, we have to remember why we are here. We are here to govern, not endlessly engage in political bickering that brings us to the brink of a Republican shutdown. The American people face great challenges each and every day: escalating health care costs; record high gas prices; skyrocketing tuition; as we learned today on the national news, pensions that are being thrown out the windows of major companies that have tens of thousands of employees; mounting debts that will be handed down to our children and our grandchildren. Under President Bush's leadership, middle-class Americans have gone backward, not forward. Instead of helping them, we are bickering over seven judges and, in my estimation, many radical judges.

For the sake of the American people and the dignity of the Senate, Democrats have been and will be reasonable. We believe too much is at stake. Our very system of constitutional checks and balances is at stake in this dispute. In granting an up-or-down vote on two and likely three of these circuit court judges—and let me say, the nominee I have talked about, Susan Neilson, from everything we know, is a fine woman. She was just grievously ill, and therefore she was not able to have the hearing before the Judiciary Committee. We are confident that will take place quickly. Once that is done and the two Senators from Michigan have had a chance to vet her, that will take care of our being able to move forward on three, not just two.

Henry Saad would have been filibustered anyway. He is one of those nominees. All one needs to do is have a Member go upstairs and look at his confidential report from the FBI, and I think we would all agree that there is a problem there.

The other two nominees, Griffin and McKeague, would not have been filibustered but for the treatment of the Clinton nominees.

Accordingly, I want the majority leader to be aware that Democrats are prepared to enter into the following unanimous consent agreement: If the nominations of Griffin, McKeague, and Neilson are reported from the Judiciary Committee, we agree to limit floor debate on all three nominations to a total of 6 hours equally divided. Following the use or yielding back of that time, there would be a vote on each of these three nominations. Once again, I say to my Republican colleagues, do they want to confirm judges or do they just want to provoke a fight?

We have confirmed all but four of the judicial nominees the majority leader has brought to the Senate floor this year. We are prepared to vote on the nomination of Griffith to the DC Circuit. We are prepared to vote on two and likely three of the nominees to the Sixth Circuit. Why are we being denied the opportunity to confirm these judges? We have already confirmed 208 of President Bush's judicial nominations. If the majority leader will accept our offer to vote on Griffith and these Sixth Circuit nominees, we would have confirmed 212 of President Bush's nominees and rejected only 5. Is the majority leader prepared to break the rules and violate 217 years of Senate tradition, all for five extreme judges? I hope not.

I have great admiration and respect for my Republican counterpart, and I am hopeful and confident that somehow we can work our way through this morass.

In a New York Times op-ed 2 days ago, former Senator George Mitchell, who was the majority leader in this body, quoted from a famous speech delivered by one of his predecessors, former Senator Margaret Chase Smith, whom I did not have the opportunity to meet, but I wish I could have. In her famous ''Declaration of Conscience'' speech against the terrible McCarthyism then practiced by members of her own party, she said:

> I don't believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans aren't that desperate for victory. While it might be a fleeting victory for the Republican Party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican Party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

Today, the Senate is not plagued by McCarthyism but by what some believe is an abuse of power.

Lord Acton, whom we studied in college—I thought it was just something the teacher had me think about that had no practical application to my life's work, but it has. Lord Acton: ''Power tends to corrupt.'' Lord Acton: ''Absolute power tends to corrupt absolutely.''

We have now a legislative body that is controlled by the Republicans in the Senate by a significant majority, by a significant majority in the House of Representatives, seven of the Supreme Court Justices across the street are Republican appointees, the White House is Republican. Let's not have Lord Acton's theory come to be.

Today, the Senate is not plagued by McCarthyism but by what some believe is abuse of power. Still, Senator Margaret Chase Smith, this great Republican Senator, her words ring true. I hope there are enough modern-day Senator Margaret Chase Smiths who will be guided by the interests of the Nation, not partisan politics.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The majority leader.

Mr. FRIST. Mr. President, I will be brief. I was just talking to my staff and to the Democratic leader to see exactly what offer was made. I did not know exactly what offer had been made, but he reviewed it with me.

Let me make a statement because it is important for people to know the Democratic leader and I are in constant conversation about what is a very important issue to this institution, to the culture of this institution, to the past and traditions which are important, but ultimately it is what we do in the future because that is what we can control today. It is our responsibility to do so.

As we walk the Halls, people come up all the time and say there are outside groups putting pressure on people to behave in certain ways, or to vote in certain ways in terms of this important issue. I have told them, all day and each and every day, ultimately how we handle judges in these judicial nominees is determined, as set out in the Constitution, by the 100 Senators who are here today. That is what we are working with and discussions are ongoing.

Having not heard the specifics of the proposal, the Democratic leader and I

will continue conversations on the proposal that he has put forth. But I do want to draw back and say that the more and more I listen to all the recent discussions about the President's judicial nominees, the more disturbed I become and the more upset I have become. Indeed, as I think about it now, it angers me to think about it, much of it, because quite frankly a real injustice, a real injustice is being done to our Nation's system of justice.

The reputation and the records of some of America's finest jurists, seven of them we talked about in the last Congress and over the last several weeks—in fact, for months now in morning business we have talked about how outstanding many of these jurists are—those reputations are being sullied and they are being smeared and we have talked among ourselves, not necessarily on the Senate floor but in private as we do on both sides of the aisle.

This has an impact on individuals, on their lives. Yes, their careers, but their lives, their personal lives, their lives with family members. And it is inexcusable, I believe.

It is time, in fact, I think it is long past time, for the majority of this Senate to come to their defense and to be able to express that on the floor of the Senate. I believe it betrays the great heritage of this country to drag a person's good name through the mud using the media and the coverage of that, and then deny them the right to be defended on the floor of the Senate and voted on on the floor of the Senate.

We look at the individuals. I use the word ''smeared'' because I believe that is the level that much of the discussion has risen to in this body. It disturbs me. It is time for us to address this, and that is why, once we finish the highway bill, we have to work together and address this much larger issue, larger than much of the legislation that is brought to this floor in the course of our daily operations. This betrayal of the country's heritage is not the way we are supposed to do things in this body, in the Senate. It is not the way we are supposed to do things in America. It is not the idea of fairness—I am going to use that word, ''fairness''—that I was accustomed to before coming to this body in the Senate.

It is not the level of fairness that you expect in a doctor-patient relationship, and thus America doesn't understand it, why we cannot bring somebody to the floor and vote on them—fair vote, up or down. It is our responsibility.

We hear again and again about minority rights. The Constitution was written to ensure the rights of the minority. We respect that. Both sides of the aisle respect that. It is much of the tradition of this body. But the Constitution was written—I guess it was neither written, nor has it operated in 214 years, in a manner that denies the majority of people in this body the right to hold a vote, yes or no, confirm or reject—confirm or deny—up or down—on a President's most important nominations. These are the most important nominations of a President of the United States. These are the nominations to our Nation's highest judicial offices.

Yes, justice must be independent. Yes, justice must be blind. But I cannot and I do not think we as a body can turn a blind eye to the continued attacks on innocent people who are willing to dedicate their lives. Let's have that debate on the floor of the Senate, bring them up in a regular order, have as much time as it justifies, listen to both sides, see if the smears and the accusations are real, and then have a vote. And however the vote falls, we are willing to accept that. Confirm them or reject them, we will accept the vote. That is the way this body expresses itself.

The Democratic leader and I will continue our discussions. Again, it is one of the great pleasures to be able to talk back and forth. But I, based on whether it is individual proposals or the larger discussion of what to do with the seven judicial nominees, or as we look ahead—what I propose we do is roughly the following: If Members of the minority want to make their case—I will tell you a lot of times we hear the case of extremist, out of the mainstream—if they want to make their case that the American Bar Association is wrong in the recommendations they have given, or in one instance in California 76 percent of the California voters are wrong, let them do so and we will do them nominee by nominee and have the courage to do so on the floor of the Senate, with plenty of time for debate—we can agree on how much time for debate on each one—and then have a vote.

America understands having a vote, having heard the case made by both sides. America does not understand how we cannot, how we can deny them that vote.

For our part, you will hear us defend the President's nominees. We will rebut and refute the attacks. Sometimes we believe, and I think America believes when they hear them, they are scurrilous attacks. We will do it point by point. Then, after we do that, we will have that vote. All 100 people in here will be able to vote yes or no, and then we will move to the next nominee in an orderly, systematic way, the ones who are on this Executive Calendar who have been considered by the Judiciary Committee, and then we will start bringing them out. I am confident, if we do that—I am very confident we will be able to judge those nominees on their merits—not because they are the President's nominees; not because people voted a certain way, even in the last Congress when things were very partisan, when a lot of it was in the heat of those elections, but in an environment of renewed civility, of being able to work together the way the Democratic leader and I are in our conversations every day—every day we sit down and discuss how to address this problem. I think that is the same civility colleagues on both sides of the aisle feel deep inside.

They do not want things to come to a head. We all know the partisanship, as the other distinguished Senator from Nevada said, Mr. ENZI described it—well, the partisanship started and other people 3 years ago didn't even think about filibusters. I don't think they thought about filibustering Supreme Court nominees or circuit court nominees. It didn't enter their head. Things have gotten so difficult and so challenging and so partisan and so locked down that it has been elevated up to where, on a routine basis—a routine basis, one out of three to one out of four of the circuit court nominees that came from the President were filibustered, were blocked, were denied an up-or-down vote.

I think everybody agrees that was excessive. I will not go into the past because I think we need to project to the future, but now is the time to get through that and to get over that. I think anything less than that at this point of allowing people to come to the floor, debate them fully, and have them voted on—and I think the American people will recognize—is a sham. I am not saying we should not come to an agreement of exactly how we should do it, but the American people understand at this juncture—they may not understand the filibuster, or rules of the Senate, and many have not gone back and read the Constitution, but what they do understand is full debate and a vote for people who have been nominated by the President of the United States to the highest courts in this country is fair and it is the right thing to do. Anything less than that is a sham. It involves hypocrisy. Hypocrisy must, in this Senate, come to an end.

If it comes to an end—on both sides in terms of the hypocrisy—if it comes to an end, we have a great year and a half to address immigration, to address energy, to address the health care issues that mean so much to me with 40 million people uninsured out there; we have been able to do class action, bankruptcy and the fifth fastest budget on time and the supplemental supporting our troops overseas and we are working on asbestos in committee and we are making great progress. It is time to move beyond this.

The hypocrisy must and will end. Each nominee is entitled to and must receive a full and just consideration of his or her candidacy and then a fair up-or-down vote.

Again, I was not in the Senate, and I did not realize the Democrat leader would make the specific offer. We have talked about much of what he said. I came over as soon as he began to talk, and I appreciate his offer for Senate debate and votes on some of the President's judicial nominees, but say once again that it is that principle of an up-or-down vote that is going to govern this side of the aisle. I believe it is what the American people expect.

With that, I am happy to turn back to the Democratic leader. Again, I look forward to our further discussions on addressing the issue that both he and I understand have to be addressed right now so we can move forward and address the many other issues. Doing that in a mutually acceptable way earns the respect of the American people and this great institution we serve.

The PRESIDING OFFICER. The minority leader.

Mr. REID. I, frankly, wish I could spend more time on the most important highway bill. I was chairman of the full committee on two separate occasions, and I am interested in the jurisdiction of the highway bill. I am sorry my attention is diverted from all we are doing on judges.

Let me say this to my distinguished counterpart, the Republican leader, the senior Senator from the State of Tennessee, I have said in the Senate on a number of occasions, I cannot justify what went on during the 8 years Clinton was President. I am not here to go into a dissertation of what happened the last 4 years during the Bush years.

But I say this: We never got into any problem with filibusters during the Clinton years because these people never got any kind of attention. They were buried in the committee. I hope the American public understand that 69 people were nominated by a President of the United States, nominations came to the Hill and were lost. Some of them waited years and years, almost 5 years. We are not here to debate every 1 of the 10. We have narrowed it down to a fairly small number.

We have to go forward. I don't know if the distinguished Republican leader and I can come up with a formula that satisfies our two caucuses. We realize the time is of the essence. Not only has the country had enough of the judicial problem we call the nuclear option, but the Senator from Tennessee and the Senator from Nevada have had enough. We have to move on. We have work we have to do in this Senate. The Republican leader has mentioned the things we have been able to accomplish so far. It hasn't been easy what we have been able to do but we put the record of our accomplishments this quarter about as far as one could go in saying we have done a pretty good job.

We have a lot of other things to do. He has mentioned a few things. But whether or not we can get things done in this Senate means we have to move beyond this problem.

Some have said that the Senate will stop. The Senate is not going to stop. It is a body that has lots and lots of rules and procedures and things are going to slow down. It will make it very hard to get things done.

We are now approaching June. After we finish 2 more weeks of work, we have 7 weeks remaining until the August recess—7 weeks to do all the things we need to do. Then we come back, and it is time to finish our appropriations bills. We have so, so much to do.

This is not to make me look good or the Senator from Tennessee look good. We have the people's business to do. We are chosen, as indicated by the vision of our Founding Fathers, to represent States. The State of Nevada has about 2.5 million people. The State of New York has 19 million. The State of California has 35 million. In the little State of Nevada, I have as much power as Senators from heavily populated states.

I hope that Senator FRIST and Senator REID can work a way out of this. I don't know if we can. We have met on this. Our conversations, I am sorry to say, are completely filled with discussion of this. We have talked about every possible avenue we think is a way to get my caucus and his caucus out of this.

I have come to one conclusion: If we work out a deal, there are not going to be many happy people around here. We will have to work something out that is a good compromise. As I have said in the Senate before, what does that mean? Both sides are unhappy.

I hope we do not have to come here and I have to look to six Republicans to stop a change of the Senate as we have known it. I hope we do not get to that point.

I have said, with the majority leader off the floor and I say it when he is in the Senate right here, I have the greatest respect and admiration for this man.

I have said it in my private conversations with others, I have said it in the Senate again today. He chose public service for the right reason. Senator FRIST is an accomplished surgeon, in a specialty, transplant surgeon. He is a man of means. He does not have to come here. He did it because he wanted public service. I have admiration for him. I wish we could move past this and move on with the business at hand.

I, again, say I cannot justify what went on during the Clinton years. It was bad. As the distinguished Senator mentioned, people's lives were disrupted and changed. They quit jobs and then they had no job. They waited in limbo for years. It affected people's lives. He and I have discussed how it affected individual human beings to their detriment.

I know for the people we are talking about, the Republicans—I am sorry, the people nominated—I don't know if they are Republicans; I assume they are—by President Bush, this has had an adverse effect on some of their lives, not all of them but some of them. So we have to move on. When we move on, we have to have the Senate we have always known.

We need the partisanship to continue. There is nothing wrong with partisanship. We are the envy of the rest of the world because of our two-party system. We are not like the parliamentary system in Great Britain where they have three parties, and Blair, with his party, barely got a majority. We are not like India or Great Britain.

Mr. President, what a wonderful country this is. President Bush was elected with fewer votes than the person he beat. His case was decided in the Supreme Court of the United States. I did not like the decision they made, but I felt like the rest of Americans—it was all over with. There was not a car burned, no fire started. There were no demonstrations. He became our President the minute that decision was made.

But the fact that we are partisans in protecting this great two-party system we have does not mean we should not work together on issues for this country. We need to do that. I hope we can do that. As the distinguished majority leader said, we are coming down to where the rubber hits the road. I would think next week there will be a decision made on this one way or the other. I hope it is something that is good for the American people. I am going to do my level best to work with my 44 Senators to see that is the case. I know he will work with his 54 Senators to see that is the case. And history will determine how the Senator from Nevada and the Senator from Tennessee fared on this issue, whether we were able to come through on an issue of tremendous importance, because the microscope is on the Senate of the United States as we speak.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I know we are on the highway bill. Senator BYRD is about to speak. So I think at least from my standpoint we will continue our discussions. As you can see, we both feel passionately about this issue, understanding it is our responsibility as leaders to lead on an issue that affects this country in a very dramatic way. It affects the future of this institution in a dramatic way.

Just to clarify, I believe we both agreed that we are going to all keep working together to address this, but we do need to bring some sort of closure to this. Therefore, after the highway bill, at the appropriate time, we will spend—it is going to probably take a week, or I don't know exactly what it is going to take, but next week—and I would hope we would engage in regular order and that we have people on the Executive Calendar and we can do what we have always done, bring them up. And as to which one, and how we go about it, would be in discussion.

But you can tell from my remarks, I believe what the American people expect is we will have full debate and expect an up-or-down vote on those, go through the normal course of business. People will be able to judge. And I hope and pray people will be able to express themselves through a vote on the floor here in the Senate.

Thank you.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted

to address a question to the distinguished minority leader without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask my minority leader, what was his proposition that he recommended?

Mr. REID. This was only a minor issue. What we have done, I say to my distinguished friend through the Chair, and my former leader, is that we have three judges, one for the DC Court of Appeals and two for Michigan, probably three for Michigan, who we said we have no objection—they are all circuit court judges—to move forward on. What Senator FRIST has said in reply is that he wants to have all the judge issues resolved before we move to any of these circuit court judges. That is what he said and that is what I said.

Mr. BYRD. Mr. President, may I address a question to the distinguished Republican leader without losing my right to the floor?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. Leader, what is wrong with that? What is wrong with the proposition that the minority leader has suggested?

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, we will continue the discussion. I would prefer to, as leader, take the Executive Calendar and take the people on the Executive Calendar, who have gone through the Judiciary Committee, who have been debated—it is the way we have always done business or should do business—go through committee and have them voted on. If they are voted on, they come to the calendar. At that point in time, you would look at that list, and you would bring them to the floor, and you would have the debate, and you would vote. That is what I would much prefer.

The specifics, just like you asked, I have heard, and we will consider that. But why not take Priscilla Owen for the Fifth Circuit, who is on this calendar, who has waited 4 years, rather than other judges, if we are going to be addressing judges? Or Janice Rogers Brown, who is a sharecropper's daughter, who is at the Supreme Court of California, with 76 percent approval, who is on the Executive Calendar? All she is waiting for—all she is waiting for—is a vote. Why can't we address Janice Rogers Brown?

William Pryor—we had a recess appointment; he has done an outstanding job; I was just talking to our distinguished Senators from Alabama—was marked out of the Judiciary Committee today.

So what I would like to do—again, I am not going to rule out anything. And I understand the Michigan judges in this Congress may be viewed a little differently than last Congress, and I appreciate that. I think once we can discuss how we are going to deal with those on the Executive Calendar—bring them to the floor—that we will be able to move very quickly on all of these, I am hopeful.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened to this discussion with considerable dismay. I hope that both leaders will not leave the floor.

I cannot understand why we can't proceed a little at a time. If we are seeking to—

Mr. REID. Mr. President, may I respond to my distinguished friend?

Mr. BYRD. Yes. May I retain my right to the floor?

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

Mr. REID. Mr. President, the majority leader and I have had, as I have indicated, many conversations. I think we should proceed one by one. The distinguished majority leader wants to resolve this issue once and for all. So I accept him at what he wants to do. I am going to work with him over the next several days—hopefully, it doesn't take that long—to see if we can resolve this in some manner. If not, we both agreed that this matter is going to end sometime next week anyway. We would hope that in the meantime we can resolve this. We are on the highway bill. We have a lot of work to do on that. In the interim, I would hope that we can work something out. If we can't, next week we will have a showdown.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I would like to avert a showdown, if we can do it. Why do we have to have a showdown?

Mr. REID. Senator BYRD, if I could be rude and interrupt, through the Chair, without the Senator losing his right to the floor.

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

Mr. REID. Senator BYRD, I feel this very way, very strongly. I say, respectfully, to a man who is the dean of the Senate today, has been in the Senate almost 50 years, who I have the widest respect for, we are not going to resolve this issue right now. We are trying to do that. We are going to have some private conversations. What I am saying to my distinguished leader, give us a little bit of time.

Mr. BYRD. Well, Mr. President, I have no quarrel with giving the Senators time. But I hope we will attempt, in every way possible, to avoid that showdown the distinguished minority leader has referred to.

This matter—

Mr. FRIST. Mr. President, let me just interrupt. The majority leader did not say anything about a showdown.

Mr. BYRD. Well, Mr. President, I know of nothing in my 47 years in this body, in my 53 years in this Congress, that has pained me more than this issue. I am pained, pained by the political partisanship. What this country needs is not partisanship but statesmanship. I have great faith in the Senate. I have great faith in the two leaders. The minority leader has made a suggestion. Why don't we proceed with it?

I am sorrowful we have come to the point where we seemingly forget the American people. We talk about the feelings of those nominees who have not been given an up-or-down vote. I am sorry about their feelings. But Senators have a right to speak, have a right to object.

And the distinguished Republican leader talks about the need for an up-or-down vote, an up-or-down vote, an up-or-down vote. I have heard the President say something about that.

Mr. President, here is my guide, the Constitution of the United States. What does it say? Does it say that each nominee shall have an up-or-down vote? Does it say that? I ask the Senator from Tennessee, I ask any Senator to respond to that question. Does this Constitution accord to each nominee an up-or-down vote on the Senate floor?

Mr. FRIST. Mr. President, I would be happy to respond to the question that has been directed to me.

Mr. BYRD. I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

Mr. FRIST. To the question, does the Constitution say that every nominee of the President deserves an up-or-down vote, the answer is, no, the language is not there. Up-or-down vote, that is the language we use to signify that when the President of the United States sends a nominee to the highest court in the land, which is his or her responsibility, which is in the Constitution, they send it to this body for advice and consent. It is common sense to me, it is fairness to me that when they come over to give advice and consent, we go through the Judiciary Committee. If they make it out of the Judiciary Committee, the way we give advice and consent on this floor is a vote. That is what we are elected to do. Or vote no. I don't mean you have to vote yes on them, but advice and consent.

To the American people who are listening now, when they elect us here, what is fair, what is our responsibility, what is our duty is to vote. That is how we give voice. You can't cut these nominees in half; you can't reshape them; you can't amend them; you can't send them to conference—all of those things. That is why I am a tremendous advocate for the filibuster for legislative matters. But when you have a nominee that comes over, all you can do is shine the light. You examine them. You debate it, unlimited debate—unlimited debate—and then to give advice and consent, which is in that Constitution, the advice and consent is right there. How do you do it? Vote yes, vote no. Confirm, reject. We

accept it. One hundred people have spoken, and then we move on to the next nominee.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this says that he, the President, shall have the power to nominate and, by and with the consent of the United States Senate, shall appoint. To give consent, we may vote. But to deny consent doesn't require a vote. It does not require a vote and the record shows that. The record shows that Republicans and Democrats have, from time to time, the leadership has denied a vote to a nominee simply by bottling up that nominee in the committee. That denies the nominee a vote. The Senate speaks, as it were, and refuses to give its consent by just saying nothing; thus, keeping those nominees in the committee. That has been done from time immemorial and more recently in increasing measure.

Many nominees under the Clinton administration were not given an up-or-down vote. They were sent up here by the President of the United States. They were not given an up-or-down vote. They were kept in committee.

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

Mr. BYRD. Let me finish. I will be happy to yield. They were not given an up-or-down vote. So the Senate did not give its consent. That is all right. That is within the Constitution. The Senate did not give its consent. So what is the difference, if the Senate, through its committee system, decides not to give a presidential nominee an up-or-down vote in the committee, then? The Senate may decide not to indicate its confirmation by an up-or-down vote, just simply be silent. It has not confirmed, has it? It has not given its consent, has it? So what is the difference?

If a nominee is not given confirmation by a committee, what is the difference? You are not giving consent there. If you are not given an up-or-down vote on the committee, what is the difference? I am unable to understand the difference.

Let's do what the Constitution says. Let's do what the Constitution says. When we talk about what these nominees deserve, what do the American people deserve? That should matter. What do the American people deserve? They deserve to move on. Look at the problems that confront this country.

Mr. FRIST addressed the Chair.

Mr. BYRD. Mr. President, if the Senator wishes me to yield, I would be glad to. I have the floor.

Mr. FRIST. Yes, sir.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished majority leader for a statement without losing my right to the floor.

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

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, why does Priscilla Owen—through advice and consent, who has gone through Judiciary Committee—not deserve the fairness—yes, the fairness—of an up-or-down vote, where every Senator can speak for or against on the floor of the Senate? Why does Priscilla Owen not deserve—she has waited 4 years—an up-or-down vote? How can you explain to the American people at this juncture, after what I would call an unprecedented number of filibusters in the last Congress, that Priscilla Owen does not deserve a vote? It is our responsibility to give advice and consent. How does she not deserve a vote in the Senate next week or the following week?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, what does the Constitution say? By and with the consent, the President shall have the power, and by and with the consent of the United States Senate, shall appoint. Now, we can wrangle until the crack of doom about why so and so and so and so were not given an up-or-down vote in the Senate. One could ask that question ad infinitum about those many nominees that were sent to the Senate by President Clinton. They never got up-or-down votes. I didn't take the floor and urge that they deserved this or that.

The Senate should be guided by this Constitution. If it elects not to confirm by simply withholding its voice, it can do so. I commend both leaders for their efforts. But I am telling you, the American people deserve something. That is what we should think about. The American people deserve action by the Senate to get on with the business of the people. Look at these high gas prices. We can talk about immigration policy. We can talk about access to health facilities. The American people deserve action on the part of the Senate, and here we are wrangling over a half-dozen nominations for judgeships. That is just a shirttail full of nominations, and they have been sent to the Senate already. In the first administration, if the Senate saw fit not to give its confirmation to them, why should the President send the same nominations back up to the Senate? There are plenty of people in this country who are able—many lawyers and judges who are able. There are plenty of people the President could nominate that would not have a problem getting confirmation in the Senate. Why do we have to send the same ones back here? That is up to the President. If he wants to send the same ones, he can.

I am saddened by this threat to use the so-called nuclear option. The distinguished majority leader prefers to call it the ''constitutional option.''

Mr. INHOFE. Will the Senator yield for a point of order?

Mr. BYRD. Not yet. I have not said much on this question, but I want to say a few things today. The Republican leader refers to it as the ''constitutional option.'' I refer to it as ''constitutional folly.'' We talk about freedom of speech in the Senate. Roots run deep with respect to freedom of speech. When the distinguished Republican leader first became leader, and even before he became leader, he visited my office and we had a good conversation. I believe he asked my thoughts on whether he might be a good leader of the Senate. I said give the Senate the opportunity to debate and to amend. That is what we are talking about here—the right to amend, the right to debate. Yet they are talking about the nuclear option.

Don't kill freedom of speech in the Senate. That great compromise that was entered into on July 16, 1787, is why we are here today. If it hadn't been for that compromise, the Senator who sits in the chair would not be sitting there. The distinguished Democratic leader would not be the leader in this body. There would be no Senate, and there probably would not be a Republic. The great compromise said there shall be two Houses, and the membership number of one shall be determined on the basis of population; the other will be a forum of the States in which each State is equal to every other State and each Senator is equal to every other Senator.

We talk a lot about tradition. I say to my good friend—and he is my friend—the distinguished Senator from Tennessee, I have heard a good many Senators on the floor talking about tradition. Well, tradition in the Senate means freedom of debate going back to the beginning of this Republic; and the Articles of Confederation, the first Constitution of the United States—going back to the Articles of Confederation, back to the House of Commons, the people of England who were in this country, especially those who decided on this Constitution, were British subjects.

So the roots of freedom of speech are deep. They go back to 1689, to the time when the English offered to William III, of Orange, and Mary the opportunity to be joint sovereigns. The proposition was that there must be freedom of speech in the Senate. Those two sovereigns—that was one of the items that was to be agreed to, freedom of speech in the House of Commons. That was on, I believe, February 13, 1689. On December 16 of that year, a statute was passed incorporating those rights into a statute. That was the Bill of Rights of our English forebears. As I say, that common thread of freedom of speech runs deep, deep in the House of Commons, and we ought to honor it here.

We are talking about cutting off the rights of Senators and about what the nominees deserve. What do the American people deserve? Well, let's adhere to tradition. There wasn't any limitation on speech until 1917 in the Senate. First, they had the previous question. Aaron Burr said in 1805, when he made his departing speech from the Senate—I am just hoping I might have the attention of Senators. I have not had much to say on this question, although it has kept me awake many nights. I

have spent sleepless hours worrying about this thing of killing debate, freedom of speech in the Senate. Who wishes, Mr. Leader, to have that kind of a legacy to confront him—to help to kill freedom of speech in the Senate? You don't want that legacy. I don't want to see you have that legacy—freedom of speech in the Senate killed.

Aaron Burr urged the Senate to do away with the previous question. They still have the previous question in the House of Representatives and in the House of Commons in England. The previous question had been on the books for a few years, but it hadn't been used, so Aaron Burr, in 1805, urged the Senate to do away with the previous question by which they could shut off debate. In 1806, in that first revision of the Senate rules, it was left out. No more could a Senator move the previous question in this body.

That was the end of it until 1917. Then, when President Wilson sought to arm merchant ships, there was a filibuster by a few Senators. Thank God. I came over here from the House like a lot of Senators have. Some want to make the Senate another House of Representatives.

The Founding Fathers did not want to do that. But when I came to the House, I did not come over here chewing at the bit to change the Senate rules and make this a second House of Representatives, only smaller. I said thank God for the U.S. Senate many times when I was in that other body. Thank God for the U.S. Senate.

Why did I do that? Because over here, a man or woman may stand on his or her feet so long as their lungs, their brass lungs, will carry their voice, and they can object.

And may I say to the distinguished majority leader, he made mention of the late Senator SMITH from Maine. I was here when she was here. What a grand woman that one, a great Senator, Margaret Chase Smith. I wish she were here today, Margaret Chase Smith. I wish those Senators of that day were here. They would not stand still for a minute to throttling freedom of speech in the U.S. Senate.

May I say to the distinguished Senator from Tennessee, please think about this. Think about this. Don't leave this as your legacy. No, try to find a way around this freedom of speech in the United States Senate. Let's don't throttle it. We have come to a time, we say we are going to try to work this out. This ought not be all that difficult to work out. As I said to the President of the United States in the presence of the distinguished Senator from Tennessee: Mr. President, tell your leadership up there not to push this, not to push this on the American people. It is their freedom. The day may come when—and it has been in the past—the day may come when the Senator from Tennessee wishes to stand and use that filibuster.

The filibuster is not a very popular thing out there in the country maybe.

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

Mr. BYRD. Not yet, if I may respectfully decline. I will shortly. The Senator from Tennessee may wish to stand on his feet and defend the beliefs, the opinions, the rights of the people of Tennessee from a majority. Over there is the majoritarian body, the House of Representatives. There is where majority rules. This is the forum of the States. It is a forum for minorities, where we can have dissent on the part of a minority. The majority is not always right. The majority has been wrong before. And so I say, let's protect the rights of the minority to filibuster, if I may use that word.

Yes, we have engaged in filibusters on judicial matters before. I was here when the President of the United States wanted to make Abe Fortas the Chief Justice. I voted on that. That was a filibuster.

Mr. FRIST. Mr. President, will the Senator yield just for a quick question?

Mr. BYRD. Mr. President, yes, I yield. I ask unanimous consent that I can yield under the rules for a question, without losing my right to the floor.

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

Mr. FRIST. Mr. President, I have a very brief question. The Senator from West Virginia mentioned what he said in my presence and the presence of other Senators yesterday. We were at the White House talking about important issues—foreign affairs—but he, I think very appropriately, brought up this issue. The Senator from West Virginia did make the point that he just made about the importance of not leaving a legacy, as you described it. My legacy would be very different because of the principle of a fair, up-or-down vote, after freedom of speech, extended debate for as long as is reasonable in terms of getting all the issues out there. That is what the American people want. They want a nominee to come over, be fully debated, everything about them, counter, debate, back and forth, freedom of speech.

The Constitution, the wonderful history you just gave us——

Mr. BYRD. Praise God. Here it is, freedom of speech.

Mr. FRIST. Freedom of speech. Let's see it next week. Take someone who is on the Executive Calendar now. Take them to the floor, and let's have freedom of speech—somebody who has waited 4 years for the appropriate freedom of speech coming to the floor—and then do—this is my question. I do not want to go into a long speech because I know we all have other engagements we need to get to. Let me ask the question. Didn't you also say, as the other part of that statement to the President of the United States, being critical of the potential legacy I might leave in order to stand up for fairness and principle, didn't you also say you would give all of these nominees an up-or-down vote on the floor of the U.S. Senate?

Mr. BYRD. I am willing to give nominees, if there is a handful of them—

Mr. FRIST. An up-or-down vote on the floor of the U.S. Senate. Isn't that what you said yesterday to the President of the United States?

Mr. BYRD. I said I am willing to give them an up-or-down vote, just a handful.

Mr. FRIST. Thank you.

Mr. BYRD. I don't mean six of them, five of them, or four of them or three of them. I have never attacked the Senator's desire to be looked upon as a leader who was fair. I have never attacked him.

Mr. FRIST. Mr. President, another quick question, reserving the Senator's right to the floor. Yesterday, in the Senator's statement to the President of United States, it was to the seven nominees he delivered to us about whom the distinguished Senator from West Virginia said: I want them, or I am willing to have—I don't know if the Senator wants or is willing to have an up-or-down vote on the seven nominees—didn't the distinguished Senator from West Virginia tell the President of the United States and other Senators that at the same time he addressed my legacy?

Mr. BYRD. Just as the Senator has had a little difficulty in recalling whether I said this or that, I didn't have a written text before me when I spoke to the President. I don't remember if I said a few or all or three or four. I don't remember. I am willing to have some votes up or down.

Let's get around this Damocles sword that hangs over the Senate of the United States and act as reasonable men and women and vote some of them up or down. Whatever the leader decides is fine. Let's don't talk about this nuclear option. Let's don't bring that down at this time. I am not referring to the legacy of the distinguished Senator in a disparaging way. I am not doing that at all. The leader——

Mr. FRIST. One more brief question.

Mr. BYRD. Yes, but let me finish my sentence.

Mr. FRIST. Yes, through the Chair.

Mr. BYRD. The leader has it within his power to go forward on all seven or six or five or four, whatever it is, or he has the power to do it on less than that number. It seems to me that a reasonable compromise could be reached among Senators. I am interested in helping to effectuate such a compromise. If it means an up-or-down vote on one or two or three or four, whatever, it seems to me to be reasonable if we can give and take—that is what we are expected to do, give a little here, give a little there—and let's get out of this morass, this terrible threat to the freedom of speech in the Senate of Senators. That means freedom of speech on the part of my people back home who expect me to speak for them.

I hope the leader will think about that. My goodness, they have a shirt

tail full of nominees, and we are going to wreck traditions? Talking about traditions, the tradition of the Senate is freedom of speech, freedom of debate, freedom to dissent.

Mr. President, this reminds me very much of a book in the Bible, a book that is titled Esther, the Book of Esther. I think it would be especially good for the distinguished majority leader to be reminded of the Book of Esther in the Bible.

I won't go into it all here, but Esther was a Jew. She had a cousin who sat at the king's gate every day. He was a Jew. His name was Mordecai. The word went out that a man who had been favored by the king, a man named Haman—H-A-M-A-N, I believe it is. Here is my Bible. This is the King James version of the Bible. I don't read any other version of the Bible except the King James version. I speak as a born-again Christian. We hear that thrown around a lot around here. I am a born-again Christian and have been since 1946.

My wife and I will soon be married, the Lord willing, in about 16 or 17 more days, 68 years. We were both put under the water in that old churchyard pool under the apple orchard in West Virginia, the old Missionary Baptist Church there. Both Erma and I went under the water. So I speak as a born-again Christian. You hear that term thrown around. I have never made a big whoop-de-do about being a born-again Christian, but I speak as a born-again Christian. Hear me all you evangelicals out there, hear me.

So here we were, we were baptized. But getting back to Esther, her cousin, Mordecai, sat at the king's gate day after day, and he refused to do homage to the king. The king was Ahasuerus, and his wife's name was Vashti. The king asked Vashti to come in before all the big shots in the kingdom, and she refused to come. So his advisers advised him to put her away and get a new queen. So they brought in all the beautiful virgins—perhaps not all of them, but they brought enough to dazzle the king's eyes—and they chose Hadassah, that is Esther, after whom the book is titled.

She was the king's new queen and she got word from Mordecai that word was going out from the king's top man named Haman that all the Jews were to be killed on a certain day. So Mordecai told her that, and she told the king and the king said: Who did this? Who said that?

So the finger was put upon Haman. Haman was the chief leader there of King Ahasuerus. Well, time went on and old Haman was advised by his people to build a gallows and hang on those gallows Mordecai, and on that same day to kill all the Jews throughout the 127 provinces of Persia.

I will go to the point of the story quickly. It ended with Haman, the man who built the gallows on which to hang Mordecai, himself being hanged on those gallows. It did not stop there. The ten sons of Haman were executed on those gallows, also.

I say this to the distinguished Senator, hear me, hear me. I am willing to give some up-and-down votes on some judges. That is a little thing. But it is a big thing if it is carried too far. Judges do not have to go before the people to be voted on like the Senator from Tennessee, the Senator from Nevada, and I have to do. They are appointed for life, and this is the only place where they can be scrutinized.

Well, in the case of Haman, he was executed on his own gallows. I say to the leader of the Republican Party in this Senate, the worm turns and there will come a day when the majority leader of the Senate will be on this side of the aisle. I have seen it happen back and forth time and again. It can happen again. That worm will turn.

I say to the leader, please do not ''Hamanize,'' if I may coin a word, the Senate. Remember Haman. The leader and his party may someday be on the same gallows that we in the minority find ourselves on today, ''Hamanized.'' Do not travel that path because the leader and his party may someday be executed on the same gallows. Think about it. Do not ''Hamanize'' the Senate of the United States.

I thank the distinguished leaders for listening. I hope my words will not have been in vain. I plead with them, please do not ''Hamanize'' the Senate of the United States. Take us out of that straitjacket. I know both leaders have been working but work some more. If I can help, let me in, count me in. I want to help.

Talking about the American people, they are the ones who are suffering from this delay. We could be doing something about matters that confront most people every day. I appeal to both leaders to let reason reign for a while. Let us reach a judgment to get on with the business of the Senate, but for Heavens' sake do not kill freedom of speech in the Senate.

Do I still have the floor, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I say, finally, my apologies to the Republican leader and to the minority leader, and thank them for listening. But how much land does a man need? How much land does a man need? Tolstoy wrote a great story. How much land does a man need?

The PRESIDING OFFICER. Senators should be advised that the Senator's hour of postcloture time has expired.

Mr. REID. I yield the Senator another hour.

Mr. BYRD. I thank the distinguished leader. I have the floor. Thank God for the Senate, I said, when I was in that body over there.

Finally, I say to my good leader, I will pose a rhetorical question. How much land does a man need? Leo Tolstoy wrote a story about a man named Pahom, I believe it was, but regardless of the man's name, this man had orchards and fields of grain and lands, but he had land hunger. He wanted more land. He kept getting more land, but he always wanted more land. The upshot of it was there appeared before him one day a stranger who offered him all the land that he could cover in a day, like that Tennessee land.

Mr. FRIST. Good land.

Mr. BYRD. He offered him all the land he could cover in a day for a thousand rubles.

He thought, this is my chance. So he took off on an early morning and he had never seen land so rich as this was. So he decided he would walk 3 miles. He left his servant there with the stranger. The 64-dollar catchword was, he had to be back at the starting point before the sun went down or he would lose his thousand rubles.

So he started out and he decided he would walk 3 miles. After he walked the 3 miles, it looked so good he thought he would walk 3 more miles, and he walked 3 more miles until he had covered 27 miles before he turned up on the second side. He covered the second side, and he sat down and he ate from the humble bag of provisions that his good wife had prepared for him, a little cheese and bread, and then he launched out on the third side of the square and he covered the third side. But as the long afternoon wore on, the land became less hilly, more rocky. So he struggled to reach the end, to reach the starting point before the sun went down because otherwise he would lose all. He would lose his thousand rubles, and he would lose the land that he covered.

Mr. President, I see the leader has left. He left me all alone here. What about this? Hey, where is my adversary? Where is my worthy adversary? Come on now. Where is the leader? Am I to be left here alone to be gored by the horns of those—where is my adversary? He is not to be found.

Anyhow, let me bring this long story to an end. In the end, the man was crawling on his hands and knees. The sun was going down. He looked ahead of him and he saw the starting point. He saw the dim face of the stranger waiting on him at the starting point, the stranger who had offered him all the land that he could cover in a day for a thousand rubles. He saw a grim smile on the face of that stranger. So, painfully, he inched himself forward little by little. His arms were bleeding from the rocks and the briers and the sticks that had gone through his skin. He reached the starting point just as the Sun went down, but he fell dead on the spot.

The stranger said: I promised him all the land he could cover. You see how much it is: 6 feet long and 2 feet wide. The stranger, called Death, said: I have kept my pledge.

So, Tolstoy asked, How much more do you want? How many nominees have we confirmed in this Senate? How many? May I ask the question without losing my right to the floor.

Mr. REID. It is 208.

Mr. BYRD. And how many have not been confirmed?

Mr. REID. Ten.

Mr. BYRD. And 7 of those are back before the Senate, out of 218? My, how much land does a man need? How many nominees do they want? Mr. President, just send up some new nominees; it is that simple.

Mr. President, I thank all Senators. I am ready to proceed on the amendment, if the Senator would like.

Mr. INHOFE. I thank the Senator from West Virginia.

I inquire of the Chair, are we still on the Byrd amendment?

The PRESIDING OFFICER. We are.

Mr. INHOFE. Let me just make one answer on the question you had, How much more land? I refer to Jabez, you are familiar, in the First Chronicles. They say: ''Expand my territory.'' So we want more.

I make a point of order the pending Byrd amendment is not germane.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak for 1 minute.

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

Mr. BYRD. Mr. President, I made my case. I think it is a good case. I do recognize that some amendments that are offered are not germane. It was my hope that, by presenting the amendment, the Chair will rule it is germane. I will accept the ruling of the Chair. I will not attempt to override the Chair's ruling if he rules against my point, but I have made my case. I thank the distinguished Senator, and also I thank Senator BAUCUS, the manager on this side, for the consideration they have given. I will abide by the decision of the Chair.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane. The point of order is well taken, and the amendment falls.

Mr. INHOFE. Mr. President, I don't know if we have people on the floor with amendments. I am hoping that we do. While all these subjects we are addressing are important, we are operating under some real time constraints. We have been on this bill now almost 2 weeks. We have worked on the bill for 3 years. This is probably the most significant piece of legislation we will be handling, and I encourage my colleagues to confine their interests to this bill and encourage as many of them as have amendments that they seriously want to be considered that they bring those amendments to the floor. We have the list now down to about 140 amendments. I know from past experience just a fraction of those will want to have serious consideration.

I make that request and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, with all due respect to my friend from Oklahoma, several days ago Senator HATCH and I were told that we could speak on the floor at 2:15. So I ask unanimous consent that I can speak as in morning business, that I will be followed by Senator HATCH, and in deference to our friend from Oklahoma, who makes a very good point, that this time be charged postcloture.

Mr. INHOFE. Reserving the right to object, I inquire of my friend from Oregon how much time he is requesting as in morning business.

Mr. WYDEN. As I said or touched on in my earlier comment, Senator HATCH and I had talked several days ago with the cloakrooms on both sides. We do want to be sensitive to our colleague. His point is valid. I think both of us could finish our remarks in about 10 minutes each, or thereabouts.

Mr. INHOFE. That is 10 minutes for each of you?

Mr. WYDEN. Yes.

Mr. INHOFE. Mr. President, I will not object. Let me propound a unanimous consent request; that is, the combined remarks of the Senator from Oregon and the Senator from Utah not extend beyond 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon is recognized.

CITIZENS' HEALTH CARE WORKING GROUP

Mr. WYDEN. Mr. President, Senator HATCH and I are taking this time to prepare our colleagues in the Senate and the public for a health care revolution that is long overdue. Right now, just over the river in Arlington, a group of dedicated citizens from every corner of the country is preparing to do something that has never been done before, and that is to tell the American people the hard truths about where nearly $2 trillion in health care goes each year and then to walk the public through the tough choices that must be made to create a health care system that works for all Americans.

The Citizens' Health Care Working Group was created by a law that I wrote with Senator HATCH. That law is just now beginning to be implemented. Beginning this week, the American people will have a place to go to find out more about the working group. I encourage them to take the opportunity to go to this Web site and learn about a very fresh approach to delivering health care for all of our citizens.

For 60 years, our country has tried the same thing. Literally from Harry Truman in 1945, in the 81st Congress, through 1993 and 1994 in the Clinton administration, the effort was to write legislation in Washington, DC. Then the American people would find it hard to understand, various interest groups would attack the legislation and each other, and everything would die.

Under the law I have written with Senator HATCH, this approach is turned on its head. Instead of starting in Washington, DC, the Health Care That Works for All Americans law begins outside the beltway. I would say to the Senate, I think health care reform has been like getting dressed in the dark for both the public and for policymakers. The American people have never been told where the money is going, so how can they, in a thoughtful way, offer suggestions on what needs to be done to improve the system? Without this essential information from the American public, how then can policymakers write legislation that thoughtfully addresses the public's concerns and garners the public's support?

This time, beginning in the fall, that is going to change. In senior centers and libraries, at business organizations, online and offline, a Health Care Report to the American People will lay out the facts for the first time. The public is going to be told in understandable language the facts as to where the $1.8 trillion spent each year on health care goes. Then the American people will have the opportunity—again offline and online—to give their ideas about how to create a health care system that works for everyone. For the first time, public involvement will be followed by political accountability.

Under the law, once Americans learn where the health care dollar is going and they have the chance to talk about how they would rather spend those dollars, Congress must follow up. All the committees of jurisdiction have to hold hearings within 60 days of the recommendations coming from the citizens of our country.

Once there is a clear citizens' roadmap to health care that works for all Americans, it will be hard for Congress to reject the citizens' health care needs. Congress can continue to ignore what the citizens are calling for, but with genuine public momentum behind this effort, Congress will ignore the citizens at its peril.

For the first time, with this approach, there is the potential to create a true juggernaut to get a bill a President of either political party can sign. It is about time.

If Americans do not have their health, we all understand nothing else matters. Before I had the honor of coming to the Congress, I served as director of the Oregon Gray Panthers. I saw then how important it was that a fresh, innovative approach be taken in this area.

Two weeks ago, the chairman of Starbucks sat in my office. This is a company that gets it when it comes to health care. They are doing something that is hard for any company to do, providing health insurance not only to their full-time employees but to their part-time workers. They have done this because their founder, Howard Schultz, remembers what it was like to grow up in a family at risk because they did not have health care. He believes a secure, covered workforce contributes to his company's great business success. But Howard Schultz will tell us, just as other concerned business leaders will tell us, they may not be able to keep that commitment if costs continue to grow exponentially.

What I appreciate about what Starbucks is saying is they are not

waiting for the bottom to fall out. Mr. Schultz has come to Washington to ask that the Congress and the executive branch partner with businesses that want to do the right thing and to cover their employees. He does not have all the answers, but he told me and Senator HATCH as part of this bipartisan law that makes a break with 60 years of failure in this area, he wants to try fresh approaches. Since millions of Americans come in contact with Starbucks each week, that is a pretty darned big contribution and an indication of what the business community is willing to do as we take a fresh look at coming up with health care that works for all Americans.

Frankly, what we have heard from Starbucks and others is exactly the kind of teamwork we wanted when we wrote the law. We are talking about a unique approach where the public has the facts, where the public gets a chance to weigh in, where Congress then has to act. This kind of approach, where you rewrite the book with respect to health care reform, is long overdue. There are going to be tough choices. Senator HATCH and I have acknowledged that at the very beginning. Certainly end-of-life issues present us with some very difficult, gut-wrenching concerns but establishing this kind of process is, in the view of myself and Senator HATCH, absolutely critical if our country is to move and to move quickly to deal with the health care challenge in the days ahead.

This health care wrecking ball is not going to hit in 2040 or 2050, colleagues. We are going to get clobbered on New Year's Day 2007 when 70 million baby boomers start retiring.

I see my friend Senator HATCH is here and Senator INHOFE has been so kind to give this time so I will wrap up. I encourage each Senator to urge their citizens at home to get involved with the Citizens' Health Care Working Group. They are going to be getting out into the communities across the country, making their information available online. This is their Web site. I encourage Senators to have folks at home ready to pitch in.

I thank my partner in this effort, Senator HATCH. If we look at the important health care legislation in the last few years, Senator HATCH's name is virtually always on it, whether it is programs for kids or how to address issues relating to pharmaceuticals. I could not have a better partner in the Senate as we try to break new ground in health care.

I yield now so Senator HATCH can have the time. I do it with my thanks.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator has just over 10 minutes.

Mr. HATCH. I will not take all that. I apologize to the managers of the bill for taking this time.

For over 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of this bill is that instead of relying on Washington for answers, we rely on the people.

I compliment my colleague from Oregon for coming up with this idea. I am very happy to sign on and help him with it, the Health Care That Works For All Americans: Citizens' Health Care Working Group legislation. It was created in order to hear what people like and do not like about the current health care system.

It is our hope this working group of citizens will have at least one townhall meeting in every State in the Union, pick the brains of all Americans, and see if we can come up with answers to our health care problems. We provide a mechanism once they do for the Congress to at least consider it and see what we can do to go from there.

This is one of the biggest issues we all have to face.

Mr. HATCH. Mr. President, everywhere I go in Utah, people tell me how concerned they are about health care. They are worried about the lack of health insurance, skyrocketing premiums, and unaffordable prescription drugs. They are worried that if they are diagnosed with a serious disease like cancer, they will be wiped out financially, even if they have health insurance. They are worried about losing their family doctor because he or she can no longer afford medical liability premiums.

There is no question there are problems with America's health care delivery system. And we have even more problems when the Government tries to impose a one-size-fits-all program on country. That's why Senator WYDEN and I reached across the aisle to start a meaningful national discussion with every day people.

A few years ago, Senator WYDEN came to my office and told me he had a ''terrific idea'' and that he wanted me to be a part of it. I am glad he did. I came to learn that we both have a strong desire to get past the partisan bickering and forge a consensus that would address the problems plaguing our health care system. We both decided to take this problem right to the American people. We want those who deal with these issues day in and day out to have their say. And, hopefully, when the process is finished, we will have a national consensus on how best to improve our health care system.

The Health Care That Works For All Americans: Citizens Health Care Working Group legislation was created in order to hear what people like and don't like about the current health care system. It is our hope that there will be at least one town hall meeting in each State. The working group members will hear from the full range of people within our health care system—including health care consumers, health care providers, and others who are impacted by health care.

For nearly 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of the Wyden-Hatch bill is that instead of relying on Washington for answers, the working group should hear from people outside of Washington regarding our health care system. The voices of all Americans, insured and uninsured, must be heard and that this issue needs to be addressed.

Today, 45 million Americans are uninsured and 8 million of the uninsured are children. We cannot allow these individuals to go without health care coverage. That is why I sponsored the CHIP legislation in 1997 to address this serious matter for children.

To me, the most appealing aspect of this Citizens Working Group is that it is unique from other previous commissions that were run by Washington insiders. This working group is composed of individuals from all over the country who have had experience with the current health care system. These are people who have had dealings with different facets of our health care system, and they want to make it better. They will talk to people from all over the country about what is working and what isn't working. And then they will put together recommendations, based on what they heard from their fellow citizens, for Congress and the administration to consider. Again, let me emphasize that the recommendations will come from the bottom-up, rather than being imposed from Washington. This is crucial because one of the first tasks of the working group is not only to get the views from the public but also to help them better understand our health care system. And once these recommendations are issued, Congress will hold hearings to address them.

This week, the Citizens' Health Care Working Group members are being briefed on various issues related to our health care system including an overview of the health care system, public health insurance programs such as Medicare, Medicaid, and the State Children's Health Insurance Program, the private health insurance market, the uninsured, and drivers of health care costs. In addition, the working group will be discussing the future field hearings, the required report to the American people, and begin consideration of approaches for conducting the community meeting.

Again, I am very hopeful about the innovative health care proposals that will be produced by the citizens' working group and want to encourage my colleagues to familiarize themselves with this important effort.

Mr. INHOFE. Mr. President, I thank the Senator from Oregon and the Senator from Utah. They have a great deal of passion on their subject and they have worked long hours. I appreciate the fact they recognize we are considering what many people consider to be the most significant bill this year.

Again, we will renew our request for Members to come down with their amendments. We have hotlined it

twice. I want to make sure I say that enough times for Members. Senator JEFFORDS joins me in this. They have hotlined it on their side. If Members want their amendments considered, if Members want floor time, if Members want a vote, come down, bring it down. I am waiting for that to happen. We are open for business. We encourage Members to come.

Mr. JEFFORDS. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. JEFFORDS. I agree with the Senator's statement and call upon Senators to be here so we can get this work done.

Mr. INHOFE. It is urgent. Let me state why it is urgent. We have a deadline. We are on not our fourth, fifth, but our sixth extension right now. When you operate on extensions, as we have said over and over again, you cannot get anything done, you cannot have any of the reforms, you cannot take care of donor States, you cannot have innovative methods of financing. That is all in the bill. Core safety provisions are in the bill. None of that will be a reality if we do not get this bill.

Why is it such a rush? This extension expires on the 31st of May. That is 19 days from now. We have to get this done. If we get this bill finished tonight, we will have time to have it over into conference and start working on it in conference in time to get the conference report back to the House and back to the Senate and to the President's desk prior to the expiration of this extension on May 31.

Mr. JEFFORDS. Mr. President, I emphasize we are running out of time. We cannot keep going this way without getting anything done. We have a responsibility to do so. I urge Members who have issues they want to raise, please come now.

Close to 50 years ago, Congress passed and President Dwight D. Eisenhower signed into law the Federal Aid Highway Act of 1956.

As Chairman INHOFE has pointed out a number of times during the debate on this bill, that legislation is one of the greatest public works projects in history and is credited with the creation of one of the biggest transportation systems in the world.

President Eisenhower was a thoughtful man, but his first realization of the value of good highways was noted in 1919, when he participated in the U.S. Army's first transcontinental motor convoy from Washington, DC, to San Francisco.

When Eisenhower and a friend heard about the convoy, they volunteered to go along as observers ''partly for a lark and partly to learn,'' Eisenhower later recalled. On the way West, the convoy experienced all the woes known to motorists, and then some: an endless series of mechanical difficulties; vehicles stuck in the mud or sand; trucks and other equipment crashing through wooden bridges; roads as slippery as ice or dusty or the consistency of ''gumbo''; extremes of weather, from desert heat to Rocky Mountain freezing; and, for the soldiers, worst of all, speeches and speeches and more speeches in every town along the way. On September 15, 1919, after 62 days on the road, the convoy reached San Francisco, where it was greeted with medals, a parade, and more speeches.

During World War II, General Eisenhower saw the advantages Germany enjoyed because of the autobahn network. He also noted the enhanced mobility of the Allies when they fought their way into Germany.

These experiences shaped Eisenhower's views on highways. ''The old convoy,'' he said, ''had started me thinking about good, two-lane highways, but Germany had made me see the wisdom of broader ribbons across the land.''

Thankfully, these experiences helped guide President Eisenhower as he developed and pushed for the creation of the Federal-Aid Highway Act. In 1955, President Eisenhower said:

> Together, the united forces of our communication and transportation systems are dynamic elements in the very name we bear—United States.
>
> Without them, we would be a mere alliance of many separate parts.

We stand here now on this Senate floor, 50 years later, trying to improve and maintain the roads and highways created by the legislation inspired by President Eisenhower.

The bill before us makes great strides in State efforts to reduce traffic congestion and make our roads and bridges safer. It will help maintain and expand our mass transit systems, and it creates jobs and helps our economy. This bill will improve transportation in every State and have an impact on every American in one way or another.

Once again, I thank Chairman INHOFE and Senators BOND and BAUCUS for their efforts in moving this bill forward. We have made good progress this week, and I know the momentum will continue today, and hopefully it will start soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for an excellent statement. That historic perspective is important for a number of reasons. The whole highway system under Eisenhower came as a result of a quest for national security. That was almost 50 years ago, and we have been funding highways the same way we did 50 years ago. We have not changed at all.

We have this excise tax. In the bill we are to pass—and hopefully it will get passed today and sent on to conference—we have new and innovative ways of financing. We allow the States to use their ways. We give them more latitude toward their methods of financing highways. We also appoint a national commission to study how we could do this in the future so we will not be standing up here 6 years from now talking about the same problems we have today.

If we operate on an extension, that is not going to happen. I made a list of all these things that are not going to happen if we have just another extension. We are on the sixth extension right now.

Let me, first of all, encourage anyone who is going to offer an amendment to come down and do so.

JUDICIAL NOMINATIONS

But while we are waiting, Mr. President, let me respond to one of the statements that was made about an hour ago—or was it 2 hours ago—when they were talking about a floor vote.

Regardless of how you interpret the Constitution on advice and consent, sometimes I say I am a very fortunate person in this body because I am one of the few Members of the Senate who is not a lawyer. So when I read the Constitution, I know what it says. It says we are supposed to advise and consent. It means a majority of us are going to have to determine whether a nominee who is presented by the President of the United States is one who is, in fact, acceptable.

What we have been asking for, as our leader articulated many times—and apparently the senior Senator from West Virginia agreed with the President yesterday—is just an up-or-down vote. That is all we want, an up-or-down vote.

Now, is this so outrageous? I will go back and quote some of my good friends on the Democrat side who are opposed to an up-or-down vote.

Senator BIDEN, on March 19, 1997, said:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . .

Senator BOXER said, on May 14, 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.

Senator DURBIN, who has been very outspoken, said, on September 28, 1998:

> Vote the person up or down. They are qualified or they are not.

Mrs. FEINSTEIN, one of our fine colleagues, the senior Senator from California, on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down. . . .

Now, apparently, their interpretation of the Constitution is what mine is.

Senator KENNEDY, on January 28, 1998, said:

> But we should resolve these disagreements by voting on these nominees—yes or no.

I agree with Senator KENNEDY.

Senator KOHL, on August 21, 1999, said:

> These nominees, who have to put their lives on hold waiting for us to act, deserve an ''up or down'' vote.

Senator LEAHY, on October 22, 1997, said:

> I hope we might reach a point where we as a Senate will accept our responsibility—

That is us.

and vote people up or vote them down.

Senator SCHUMER, on March 7, 2000, said:

I also plead with my colleagues to move judges with alacrity—vote them up or down.

So I am saying that I agree with all of my good Democrat colleagues that we should give them an up-or-down vote, and I have no question but that the American people feel the same way. You see different polling data, but when they are asked the question, Should these people be entitled to a vote up or down? they overwhelmingly believe they should.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Mississippi.

Mr. LOTT. Mr. President, I actually came over to have a little discussion with the distinguished chairman of the full committee who has brought this legislation forth, Senator INHOFE. I thank him for the work he has been doing. We had an issue we have been discussing, and I think we have something identified to be helpful.

I came to talk about the highway bill, and I will do it to this extent: We need a bill. It is an overdue bill. It is important to our country. It is important to have infrastructure. It is important for job creation. It is important for economic development. And it is important for safety.

We ought to do this bill. I just cannot understand why the Senate still heaves away from getting this extremely popular, overdue, and highly necessary piece of legislation passed.

I urge my colleagues, if they have good amendments, let's do them. If we can't get it completed this afternoon, let's do it as soon as possible. It is critical for our country.

We are speaking on time on the highway bill, but actually other subjects have been introduced. I would like to comment on that.

Mr. INHOFE. Will the Senator yield?

Mr. LOTT. I am glad to yield.

Mr. INHOFE. Mr. President, we have been pleading with our colleagues to bring amendments down. Will the Senator, in the event an amendment comes to the floor, then yield for consideration of that amendment?

JUDICIAL NOMINATIONS

Mr. LOTT. I want this legislation so bad, I would even stop talking myself. That would be a major sacrifice, but yes, I would be glad to yield. But since the opportunity presents itself and I missed the opportunity to engage in the discussion an hour or so ago—not that it was needed—I have had very little to say on the floor of the Senate about the discussion about judges. There are a lot of different viewpoints. I am not going to refer to what others have said and I am not going to suggest I am a great constitutional scholar or that I am so steeped in all of the rules and traditions of the Senate. But I have studied this issue.

I have been in the Congress for now going on 33 years. I have read the Constitution over and over again, particularly on this subject, article II, section 2. I am somewhat familiar with the traditions and rules of the Senate. I am chairman of the Rules Committee. I have been in leadership roles. I must say that while we have had our disagreements and while I have seen us make mistakes and while I have seen injustices heaped on each other, on the people who are affected by issues we deal with, I don't believe I have ever seen anything as unfair and wrong as what I have seen happening to these circuit court nominees over the past 4 years. This has been going on for 4 years.

I was stunned when it started happening with Judge Charles Pickering of Mississippi and Justice Priscilla Owen of Texas. I thought maybe that was something aimed at me or maybe it was aimed at the Fifth Circuit Court of Appeals, or maybe it was a fit of anger about some of the nominees from President Clinton who didn't get out of the Judiciary Committee, but it would be a passing break from tradition. But no, this has continued right on through the 108th. We need to find a resolution that is fair to all concerned.

I wanted to correct a couple misimpressions, perpetuated primarily by the media. The proposal to put the tradition back in place that we don't filibuster Federal judicial nominees is not an end of the filibuster. Some of the media—accidentally, I am sure—suggested this is a debate over whether to have the filibuster. No, it is limited to the Federal judiciary. It won't affect our ability to continue to filibuster legislation or other executive branch nominations, although I have to confess, I think there should be some reasonable limits on that also. I am not a guy who gets so caught up in the institutional rights that I forget considering the rights of people and right and wrong. Does that have a place here in the Senate?

These good men and women and minorities have been maligned, mistreated, have had their lives disrupted, some of them for 4 years. Some of the best possible nominees such as Miguel Estrada said: Well, I have to go on with my life. And he withdrew.

There has been a misimpression given about how this would limit the filibuster. It would only apply to these judicial nominees.

The other thing is, Senator FRIST and the Republicans are considering changing the rules. Actually what we are considering doing is putting tradition back in place. The tradition has not been to filibuster Federal nominees. The tradition has not been to filibuster appellate court nominees. Not one time during the 6 years or so I served as leader did we have a filibuster. We are trying to go back to where we were. You can argue over this example or that example or we should retain that right. No, that has not been the right. That has not been the tradition. What has happened is wrong.

I saw somebody last night on one of the talk shows saying everything that happens in Washington is about something else. This lady suggested this whole debate is about the next Supreme Court nomination. Maybe that is true. Maybe there are a couple other things it is about, but in the meantime, innocent and qualified, good people are having their lives disrupted and smeared by this process.

I acknowledge this sort of thing has been going on ever since I have been in the Senate. Every time we have a filibuster or kill somebody or embarrass somebody in our process, whether it is Senator John Tower to be Secretary of Defense or Clarence Thomas to be on the Supreme Court, Judge Bork as a nominee, every time we seem to drop down another level. Sure, a lot of the Clinton nominees were held up in the Judiciary Committee. Maybe this is retaliation for that. What is going to be the next retaliation? How low can we go before we stop this tit for tat?

Now is the time to end it and go back toward greater comity between the parties and the people involved in these discussions. I haven't been sitting on the sideline saying: Let's impose this rule. Let's comply with the Constitution, which I think we should do. I want to make that perfectly clear. I have one goal and only one goal, ultimately, in this area, and that is to stop filibusters of these Federal judges. I don't particularly care how we get there, but that is the right thing to do. I am determined to get there.

As chairman of the Rules Committee, we had hearings on and moved legislation 2 years ago, sponsored by Senator FRIST and Senator Zell Miller, to try to come to a fair conclusion about how these judges would be handled. It was a process that said the first vote on cloture would require 60 votes, then 57, then 55, but ultimately get to an up-or-down vote, a majority, but an elongated process to make sure everything that needed to be said could be said. It could be fully scrubbed, and at some point you get to conclusion. A filibuster, the way it is being used, is guaranteeing we never get to conclusion. It goes on and on from one Congress to the next.

We reported out a bill. That apparently wasn't acceptable to the minority, the Democrats. So I started looking for other solutions. I did talk to Senator BEN NELSON and others: Is there some way we can address some of these concerns; is there some way we can guarantee that these nominees are not unfairly held permanently in the Judiciary Committee?

We came up with a process that said after 90 days, if the appropriate blue slips have been returned by the Senators from the State of the nominee affected, then they would come to the floor. They could not be held in committee indefinitely, but if there was a problem that came up and they needed

an additional 90 days, agreed to by the chairman and ranking member, then it could be extended. Ultimately, they would have to come out of committee and be considered by the full Senate. That would address one of the concerns that has been pointed out by Senator REID and Senator LEAHY and other Democrats. There is some merit to what they are saying. Let's fix that.

The second problem was freedom of speech, the great tradition in the Senate of endless debate. Give me a break. At any rate, to say the majority leader could not even file cloture for at least 24 hours after a nomination was called up—it could be longer—and then he could file cloture, and after 2 days we would eventually get to an up-or-down vote, but have a week for debate. By the way, Senator FRIST subsequently suggested that be moved even further. Every Senator would get an hour if he wanted it, full debate. I hate the thought of that, too, having to listen to 99 other speakers on a judge. Think about the sacrifice the majority leader has to make. When the majority leader has to give 100 hours to anything, how many judges could do you that on? It would be another impediment. But we would have full debate and then a vote. That was the key. Fairness on the committee, full debate on the floor, but ultimately a vote. That was rejected.

A lot of different ideas have been explored. A lot of Senators would like to find a way to stop the way we have been doing business but doing it where everybody could have some degree of comfort. I think time is running out. I think we have to make a decision on this and move on. Some people would say: Oh, my goodness, the Senate will be stopped, slowed down, with different agendas offered. How will we get anything done? The last time I checked, we have done four bills this year. We are not exactly burning up the woods. How do you slow down from almost a dead stop? So there is a little bit of a temerity—I will not use names to describe what the Senate is doing.

I think we need to work together. We have done it many times across the aisle. We have worked with Senator BAUCUS of Montana on issue after issue. Senator GRASSLEY won't have it any other way, to his credit. We ought to find more ways to do it. We ought to find a way to do it on Social Security. We have done it before. It took courage. We have done it on trade and we are going to do it again. It will take courage, sacrifice, and we are going to have to work to find a solution. We can do that here.

But I guess the thing that really gets me the most is when we put our description of tradition and the great institution ahead of human beings. When we have this debate, I see faces, people; I see Janice Rogers Brown, from California, who has an incredible story to tell. She is being maligned. Is she a conservative African-American woman? Yes. Is that disqualifying? It should not be. You may not agree with her opinion of Franklin Roosevelt, but isn't she entitled to an opinion? All the while, perhaps, she is ruling very fairly or even ruling against her personal beliefs, if that is what the court precedent calls for.

Mr. President, I don't necessarily mean this as critical of the institution or any one individual, but I think there is an awful lot of pontificating that has gone on too long here. Priscilla Owen, a supreme court justice in Texas, deserves a vote. She deserves to be confirmed. Somebody said she is too pro-business, she has a conservative viewpoint. Is that now disqualifying? I don't think so.

I have voted for judges I didn't agree with, perhaps on labor law. I point out over and over again that I voted to confirm Justice Ruth Bader Ginsburg. Certainly, she would not have been my pick, but she was qualified, experienced, and had proper decorum, and she was ethical. President Clinton won the election and so, based on that, I voted for her.

Surely, we can find a way to work this out. I think it has gone on long enough. I have tried not once, twice, but three times to find a way that we can get the right result, which is an up-or-down vote on these judges, and I have not been able to be successful yet. A lot of people have tried, and I think they deserve recognition. Those of us who have worked to try to find compromise have not been working against the interests of our leadership. We told them what we were trying to do. That is in one of the finer traditions of the Senate. But I cannot find a solution that I think is fair, other than to make it clear that these nominees deserve an up-or-down vote.

The Senate should vote. Some of them won't be confirmed, I predict. One or two of the seven—the magnificent seven—that have been renominated may not be confirmed. I would not be surprised to see that. I have voted for judges and against judges, but all of a sudden we don't want to do that.

Let the Senate do what it is supposed to do. Let's ante up and kick in. Let's vote and solve this issue, get it done, and let's move on and legislate for the best interests of our children and grandchildren.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator for his remarks. This bill is urgent. We have been, as I said, hotlining it. We have done it twice on our side. I am waiting for responses to see what kind of progress they are having on the other side of the aisle.

I want to get on record here so that Members can all be aware it appears we are down to about 10 amendments right now on this side of the aisle. I think it would be very wise to continue to talk about this because we will be getting to a point where we are going to have to draw this to a conclusion, and now it seems like it may be some workable number.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. 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 FILIBUSTER

Mr. INOUYE. Mr. President, on January 31, 1963, I gave my maiden speech in the Senate. That is over 40 years ago—42 years ago. At that moment, the Senate was embroiled in a very heated debate on civil rights. The question before the Senate was the filibuster because many of my colleagues, especially those who were designated as liberals, looked upon the filibuster as the major obstacle to the granting of civil rights to the oppressed minority of this Nation. On that day, I was given the right to the floor and I gave a short speech. I think it is quite relevant at this moment. If I may, these are the words of 31 January 1963:

> Mr. President, I fully understand the respected custom of this body which advises a new member to sit in his chair, to listen quietly and learn before he rises to speak to the Senate himself.
>
> There is wisdom in that custom, as there is in most customs which last through years of trial and experience. I would not willingly break that honored silence, but because this debate calls to question the place of the minority in a democratic political system, I feel I must say these few words in deep but passionate humility, for I am a member of a minority in a sense few other Senators have ever been.
>
> I understand the hopelessness that a man of unusual color or feature experiences in the face of constant human injustice.
>
> I understand the despair of a human heart crying for comfort to a world it cannot become a part of and to a family of man that has disinherited him.
>
> For this reason, I have done and will continue to do all that one man can do to secure for these people the opportunity and the justice that they do not now have. But if any lesson of history is clear, it is that minorities change, new minorities take their place, and old minorities grow into the majority.
>
> One can discern this course in our own history by observing the decisions of the Supreme Court, where the growth of the Nation's law so often takes the form of adopting as the opinion of the Court the dissenting view of the earlier decision.
>
> From this fact, we discern the simple example of a vital democratic principle. I have heard so often in the past few weeks eloquent and good men plead for the chance to let the majority rule. That is, they say, the essence of democracy. I disagree, for to me it is equally clear that democracy does not necessarily result from majority rule but rather from the forged compromise of the majority with the minority.
>
> The philosophy of the Constitution and the Bill of Rights is not simply to grant the majority the power to rule, but is also to set out limitation after limitation upon that power.
>
> Freedom of speech, freedom of the press, freedom of religion: What are these but the

recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law.

This power given to the minority is the most sophisticated and the most vital power bestowed by our Constitution.

In this day of the mass mind and the lonely crowd, the right to exercise this power and the courage to express it has become less and less apparent. One of the few places where this power remains a living force is in the United States Senate.

Let us face the decision before us directly. It is not free speech, for that has never been recognized as a legally unlimited right. It is not the Senate's inability to act at all, for I cannot believe that a majority truly determined in their course could fail eventually to approach their ends. It is instead the power of the minority to reflect a proportional share of their view upon the legislative result that is at stake in this debate.

To those who wish to alter radically the balance of power between a majority in the Senate and a minority, I say, you sow the wind, for minorities change and the time will surely come when you will feel the hot breath of a righteous majority at the back of your own neck. Only then perhaps you will realize what you have destroyed.

As Alexis de Tocqueville said about America in 1835: ''A democracy can obtain truth only as the result of experience; and many nations may perish while they are awaiting the consequences of their errors.''

The fight to destroy the power of the minority is made here, strangely enough, in the name of another minority. I share the desire of those Senators who wish to help the repressed people of our Nation, and in time, God willing, we shall effectively accomplish this task. But I say to these Senators, we cannot achieve these ends by destroying the very principle of minority protection that remains here in the Senate.

For as de Tocqueville also commented: ''If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority.''

I thank the Chair.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. INOUYE. I will be happy to yield.

Mr. REID. That speech was given 41 or 42 years ago?

Mr. INOUYE. Forty-two years ago.

Mr. REID. I say to my distinguished friend, we have heard a lot of speeches in the last several months on this subject, but I have to say candidly that this is the best speech we have heard. This is outstanding, especially coming on the footsteps of the great Senator ROBERT BYRD who made a statement about the right to free speech.

As I look back at a very young Senator from a very small State taking on people who had been here a long time, going against a majority of his party, in a sense, certainly a lot, as a young Senator, shows why 20 years prior to giving this speech he was a hero on the battlefield for America and why he has been a hero on the battlefields of the Senate for all these many years.

Mr. INOUYE. Mr. President, I thank the Senator.

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

Mr. INOUYE. Yes.

Mr. JEFFORDS. I echo the comments of my good friend. The Senator from Hawaii has given us an opportunity to listen to the goodness he has given us in many speeches. I thank the Senator for what he has done today.

Mr. INOUYE. The Senator from Vermont is very kind. I should point out, I was very proud of my speech, but the consequences are rather sad because my so-called liberal friends avoided me for a few weeks after that.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, before I suggest the absence of a quorum, let me also echo my good friend. One of the real thrills I have had since I came from the other body was when Bob Dole was here with the Senator from Hawaii, and the two of them made such a spectacular image of everything that is good about this country and how good we feel. Every time I look at the Senator from Hawaii, I see a true American hero.

Mr. INOUYE. Mr. President, I thank the Senator from Oklahoma very much.

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

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

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. 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 Vermont.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1011 are located in today's RECORD under ''Statements on Introduced bills and Joint Resolutions.'')

Mr. INHOFE. Mr. President, I renew our plea for Members to bring their amendments down. We are making progress in terms of shortening the list. I would like to announce on our side we have hotlined it twice and we are down to 11 amendments by 9 different authors, different Senators. I encourage those nine to come to the floor while we have ample time. It is my understanding that after a couple of hotlines on the other side of the aisle, they only have about six amendments. That being the case, we could actually move the bill, if we can get these people down and get them to offer their amendments.

Mr. JEFFORDS. That is correct. We have only six we know of.

Mr. INHOFE. We have made progress, anyway, looking at who is serious about their amendments. I hope any staff or Members watching now would be encouraged to bring their amendments down.

I yield the floor to the senior Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, America has come a long way since the first State safety belt laws were passed two decades ago. I am speaking today not just as a proponent of reauthorizing the highway bill, but also to express my strong support for provisions in this bill designed to promote primary safety belt laws in the States. These laws help prevent fatalities and crippling, disabling injuries when auto accidents occur.

As many of you know, primary safety belt laws allow police officers to stop and issue citations to motorists they observe who are not buckled up. Secondary safety belt laws, on the other hand, require a motorist be pulled over for another offense before he or she can be issued a ticket for failing to wear a safety belt.

Today, 21 States, the District of Columbia, and Puerto Rico have primary belt laws and we know these laws are working. I am proud that in my home State of North Carolina—our home State, Mr. President—which enacted a seatbelt law in 1985, belt use rose to 86 percent in 2004.

Let me review a little history. It was in July 1984, during my first full year as Secretary of Transportation under President Reagan, that we issued rule 208, resulting in the installation of airbags in passenger vehicles and the enactment of safety belt laws across the country. Rule 208 was designed to save as many lives as possible as quickly as possible. It successfully resolved a 17-year dispute that spanned four administrations.

The rule recognized the role of the States in automotive safety. Not a single State at the time had passed a safety belt law. Usage was at only 13 percent, and airbags were virtually nonexistent. In fact, I remember having to search high and low to find an airbag-equipped car so I could put it on the White House lawn for President Reagan and the Cabinet to go out and examine.

There was very little consumer acceptance at the time. Many folks feared when they crossed the railroad tracks that the airbag would go off. Today, motorists regard automotive safety quite differently. Most of us get in a car and we barely notice that the vehicle has an airbag. And most of us innately fasten our safety belts.

Statistics prove we have made great progress increasing safety belt usage and saving lives on our Nation's roads since those first State safety belt laws were enacted.

Now, over 20 years later, we need to urge more States to take their laws to the next level by enacting primary safety belt laws. The National Highway Traffic Safety Administration estimates if all States enacted primary safety belt laws, more than 1,200 deaths and 17,000 injuries would be prevented annually.

I take this opportunity to thank the folks at NHTSA, and especially Administrator Dr. Jeffrey Runge, for their continued hard work and leadership to increase safety belt usage throughout our country. According to NHTSA estimates, in this year alone, 15,000 lives will be saved—15,000—by wearing safety belts. The economic costs associated with belt usage are significant as well. NHTSA estimates safety belt usage

saves America $50 billion in medical care, lost productivity, and other injury-related costs. By contrast, fatalities and injuries resulting from not wearing a safety belt generate $26 billion in economic costs annually. These costs include higher taxes and higher health care and insurance costs.

The fact is safety belts reduce the risk of death in a severe crash by 50 percent. We must urge folks to use their safety belts. Increased usage rates and primary belt laws have a proven track record of doing just that.

With this legislation, States that chose to adopt primary safety belt laws would receive a one-time grant equal to 500 percent of the highway safety money they received in 2003. States that already have primary safety belt laws would receive 250 percent of the 2003 level in highway safety money. At the end of the bill's reauthorization in 2009, any leftover safety funds will be distributed to States that have enacted primary belt laws.

With this increased funding, States can spend more on highway safety improvements and make our roads even safer. NHTSA Administrator Runge best described the importance of safety belt usage in April of this year, when he told the Senate Commerce, Science and Transportation Committee:

> Unlike a number of complex issues facing the Nation today, we have at least one highly effective and simple remedy to combat highway deaths and fatalities. Wearing safety belts is the single most effective step individuals can take to save their lives. Buckling up is not a complex vaccine, doesn't have unwanted side effects, and doesn't cost any money. It is simple, it works, and it is lifesaving.

I could not agree more. After two successful decades of State-implemented belt laws, it is now time for this Nation to further improve safety on our Nation's roads. We have accomplished many things to advance automobile and road safety over the last 20 years, and now we must act on this opportunity to do even more.

I ask unanimous consent that NHTSA Administrator Runge's letter to me on this matter be printed in the RECORD, and I yield the floor.

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

U.S. DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
Washington, DC, May 11, 2005.

Hon. ELIZABETH DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to bring to your attention my strong support for the safety belt State incentive grants contained in S. 732, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA).

The Bush Administration, along with the National SAFE KIDS Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Traffic Safety, the National Safety Council, the American Insurance Association, Advocates for Highway and Auto Safety, the Automotive Occupant Restraints Council, the American College of Emergency Physicians, the Alliance of Automobile Manufacturers, and the National Automobile Dealers Association all support this provision. They support it because it will save more lives, and do it faster and cheaper than any other proposal the Senate will consider this Congress, and perhaps this decade. If all States adopted a primary enforcement safety belt law, 1,275 deaths and 17,000 serious injuries would be prevented every year. No other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.

While deaths per vehicle mile traveled are at an all-time low, the carnage on our highways is still too high. In 2003, 42,463 people died and 2.9 million were injured due to motor vehicle crashes. The cost to our economy was over $230 billion.

With the number of vehicle miles traveled increasing each year, if we as a Nation are going to reduce the fatalities on our streets and highways, safety belt use must also increase. No vehicle mandate, no complex rulemaking, no public education campaign will save as many lives as a meaningful incentive to pass primary safety belt laws. Congress has the power to grant the incentives and that power will save lives.

I urge you to support the safety belt incentive grants in S. 732 and reject any amendments. Thank you for your consideration.

Sincerely yours,

JEFFREY W. RUNGE, M.D.

Mr. INHOFE. 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. DEWINE. 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. DEWINE. Mr. President, the SAFETEA bill in the Senate today is a good bill. I strongly support its passage.

I thank Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS for their good leadership and their good work, particularly on the Environment and Public Works title of this bill. The roadway safety and funding provisions they have crafted are vitally important.

Let me also thank Senators STEVENS, LOTT, INOUYE, and MCCAIN for their hard work on the Commerce Committee vehicle and behavioral safety title.

Finally, let me thank Senator ROCKEFELLER for his support as the lead cosponsor of the safety provisions I have authored that are part of this bill.

Staff on both the Commerce Committee and the EPW Committee also deserve praise and thanks for their hard work on this bill. In particular, I thank Ruth Van Mark, Chris Bertram, David Strickland, and James O'Keeffe and JC Sandberg for their willingness to work with my office on portions of the bill I wanted included. These are portions of the bill I will describe in a minute that have to do with highway safety, provisions that I believe truly will save lives. I thank them for their very good and diligent work.

I also thank Kevin King of my staff for his hard work on these safety provisions in the bill.

While certainly we would like to include more funding for highway and transit projects, I commend my colleagues for doing an excellent job in stretching the funding that is available as far as it can go.

The language Senators GRASSLEY and BAUCUS have drafted adding additional funding helps. I am a strong supporter of their efforts. We need the funding that the managers' package provides to improve the rate of return for donor States, such as my home State of Ohio, to get those levels up as high as possible.

Additionally, the managers' package contains the Commerce Committee title of the bill relating to safety programs. This title is comprehensive and deserves the full support of the Senate.

I will take a few minutes now to talk about the safety provisions I have asked to be included in the bill. First, I will say something about Senator LOTT's provisions on the Primary Safety Belt Incentive Grant Program.

I thank Senator LOTT. I congratulate him for including this provision, a provision that will clearly save lives. Senator LOTT came to the Senate floor earlier and spoke about the importance of this provision. I must say what Senator LOTT said is absolutely correct. This provision must be kept in the Senate bill. It must be kept through conference. Efforts to modify or remove primary safety belt incentive grants will undermine the national goal of reaching 90 percent safety belt usage. Encouraging States to aim low when it comes to saving lives makes no sense. Such efforts to change this language in the bill must be opposed.

Some States already have primary enforcement laws. Those laws are the single cheapest and most effective means for saving lives on our Nation's roads. Those States that have already enacted primary seatbelt laws have seen lives saved. Other States, such as my home State of Ohio, do not have primary seatbelt laws. These States would benefit tremendously in terms of lives saved and financial bonuses under Senator LOTT's program. The incentive program may be the only way to get some States to adopt primary laws.

In Ohio alone, it is estimated we could save nearly 100 lives per year if we added primary belt laws. If we maintain this provision, countless lives will, in fact, be saved. The highway experts, the people who study this issue, who understand it, tell us this is the simplest, cheapest, easiest way to save lives. It is the one thing we could do to save lives in this country the easiest way.

So I thank Senator LOTT and commend his efforts and urge my colleagues, if there is an amendment offered to take this provision out, that they oppose that amendment.

Let me say a few things about the provisions in the bill that I have been working on and I have asked to have included and that have, in fact, been included. First, Senator ROCKEFELLER

is the lead cosponsor on our provision that we call Stars on Cars. While the name is kind of cute, its focus is quite serious.

Today, when you go to buy a new car, we all know there is a large label on that car, a large label on the window telling the price, the features, and other information about the vehicle. Most of the content on the sticker is actually mandated by the Federal Government. The sticker has to tell you whether the vehicle has a stereo, the car's mileage, how many miles per gallon, and so on. But one piece of vital information, amazingly, is not there, and that is the safety ratings. How safe is that car? That piece of information is not on the sticker.

Citizens have a right to know this information, and our provision would provide, for the first time, that information would be available right on that car, right in the showroom when you walk in to buy the car. Taxpayers have already paid to have the National Highway Traffic Safety Administration, NHTSA, test cars for this information. We have already paid for the information. In fact, NHTSA has put this information up on the Internet. It is available on the Internet now. But, nonetheless, this information is not available to the American consumer in the one place where it would be most helpful, the one place where it would truly make a difference: where you buy the car, on the face of the car when you buy it at the dealership.

Our provision would add a new section to the label that would clearly lay out information from each of the crash tests. You would have the information about frontal crash impact, side impact, and rollover resistance. It would show the test results as star ratings on the label, just like many automakers already do in their commercials. This is a commonsense provision, and it is one that will allow consumers the opportunity to make more informed decisions for themselves and their families.

We have found over the last few years that consumers are much more conscious about the safety of the cars they buy, wanting to put their families in safe cars. This is a proconsumer, prosafety provision that makes good common sense. I congratulate the committee for including it in this bill.

Another provision in this package that Senator ROCKEFELLER has cosponsored with me is what we call the Safe Kids and Cars Act. Now, according to NHTSA, automobile crashes are the leading cause of death for those ages 4 to 34. More than cancer, more than fire, more than anything else, auto accidents are the source of child fatalities. We all know that.

The focus of the child safety initiative we have incorporated in this bill is on an emerging danger for small children that is often overlooked. It is referred to as ''nontraffic, noncrash'' accidents. What are those? Well, these are incidents in which there is an interaction between an automobile and a child which leads to injury or death when the vehicle is not on the road or there is no actual crash which has occurred. Instead, these are accidents that happen inside parked cars, in driveways, or other common, potentially deadly situations.

We provide two different things in this title. The title includes two very different sections relating to the Safe Kids and Cars initiative. The first one directs NHTSA, for the very first time, to perform regular collection of data on nontraffic, noncrash injuries and deaths. We need that information. We need that as a matter of public policy. If we are going to prevent them, we have to understand them. We are not collecting the data today. We do not fully understand it.

Further, we have another section that deals with the so-called back-over deaths and requires NHTSA to investigate this issue and the technologies that might help prevent such accidents in the future. These back-over deaths occur in driveways, people's homes. Quite often, every year, a child is backed over and killed. They are becoming more frequent, as people have vans where you cannot see out of the back of the van very well.

We need to better understand the cause of these accidents. We need to have better information. NHTSA needs to investigate this issue and needs to look at the technologies that might help prevent such accidents.

Another provision we have included in this bill we call dangerous roads and intersections. Senator ROCKEFELLER and I have worked on this provision. Every State in the Union, of course, has dangerous roads, dangerous intersections. Most States, fortunately, rank these. Most States come up with a list of what are the dangerous roads, the most dangerous places in the State. They keep a list of them. But, amazingly, there are many States that keep this information secret and never tell the public.

Citizens have a right to know this information. What would you do with the information? Well, if you are a parent, you might tell your child to avoid a certain road: Don't go that way to the movie. Don't go that way to the restaurant. Don't go that way on a date. Go a different way. You have a right to know that information. Or if the public knew about a road that was statistically very dangerous or the State knew that it was dangerous, maybe the public would demand that road be fixed. That is the type of vital information the public has every right to know.

Our provision requires that safety information be disclosed to the public as an eligibility requirement for a new Federal safety funding program, the Highway Safety Improvement Program. States seeking additional Federal dollars for safety construction projects will have to identify their danger spots, rank them according to severity, and then disclose them to the public. It is pretty simple. Most States are already doing it; they just have to disclose it. This is another commonsense provision that truly is going to save lives. I am pleased it has been incorporated into this highway bill.

The fourth issue covered by language in the bill that I included, along with Senator ROCKEFELLER, has to do with driver education and licensing. Teen driving is an area where the fatality rates are very high. Unfortunately, current programs are many times not getting the job done. Higher crash and fatality rates for teenage drivers can be reduced if we work at it. The Federal Government can't run driver education. It is a State responsibility to set standards. But the Federal Government can play a small yet significant role and a productive role. Revitalized driver education needs to be data driven. We can help teenage drivers avoid high-risk situations, particularly in the first 6 months behind the wheel. Integration of driver education with graduated licensing must also be addressed.

The language we have included in the bill creates a driver education and licensing research program within NHTSA. This program will go out and test what works and what doesn't and come up with a ''best practices'' model that States can implement. The time has come to take serious action on driver education and licensing. This program is a solid first step. We need to have scientific data, and the Federal Government is in a good position to come up with this data to assist States as they develop good criteria.

Finally, I have worked with Senator LAUTENBERG to include a provision in the highway bill to reduce the number of drinking and driving deaths and injuries each year. Statistics are staggering. In 2003, 17,013 Americans died in what we believe were alcohol-related incidents. NHTSA projects this number dropped to 16,654 in 2004, a 2.1-percent reduction. While this is good news, it certainly is still too high. We do want to see the trend continue. To help accomplish that, the language we have supported requires NHTSA to work with the States to conduct combined media-law enforcement campaigns aimed at reducing drunk driving fatalities.

Specifically, the law enforcement portion of this bill consists of sobriety checkpoints in the 39 States that allow them. In the States that don't allow them, it provides for saturation patrols. The Centers for Disease Control estimates the sobriety checkpoints may reduce alcohol-related crashes by as much as 20 percent. That is a significant amount. We should do all we can to help States reduce drinking and driving. This provision will do that.

In conclusion, the fact is that auto fatalities represent the No. 1 killer in this country of those between the ages of 4 and 34. In 2004, NHTSA projects that almost 43,000 people were killed on our Nation's roads. In 2003, the number

was 42,643. In fact, in the next 12 minutes, at least one person will be killed in an automobile accident, while nearly 6 people will be injured in the next 60 seconds. This is a tragedy we as a society are much too willing to tolerate. It is so common we kind of shrug it off and put up with it. These auto fatalities occur every day, every hour. And yet somehow we all have become immune to it. This year's highway bill takes some positive steps toward reducing those deaths.

I thank the sponsors for working with me on these safety measures that truly will save lives. I commend them for their efforts and for including these provisions in the bill. I urge my colleagues, once this bill goes to conference, to continue to include these provisions in conference.

I yield the floor and 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 the order for the quorum call be rescinded.

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

Mr. INHOFE. Mr. President, I was able to listen to the Senator from Ohio, Mr. DEWINE. He has always led this body in the concern for safety. He points out the critical need to finish this bill. Hopefully, today we will finish this bill because we have the longest, most comprehensive safety core section, title, in this bill that has ever been offered in any reauthorization since Eisenhower. That is why we say, as I think Senator DEWINE was pointing out, lives can be saved or lives can be lost, depending on whether we pass this bill.

We will not have the safety core programs if we merely have an extension. Right now we are on our sixth extension. An extension is nothing but a defeat, an admission that we are not able to get a bill through so let's have what we had before. That's actually an extension of what we passed 7 years ago. It doesn't have any of these things in it. If we have an extension, none of the safety core programs Senator DEWINE was talking about would be included.

I can tell you—and I think everyone knows—statistically, it is an absolute that people will die; not just adults driving, but one of the things in this bill is the Safe Routes to School provision which would save young lives—kids going to school. So it is a life-or-death matter that we pass this bill and pass it very soon.

When I say ''very soon,'' we ought to pass it today because the extension, this sixth extension I refer to, is going to expire on May 31. If that happens, that means we will be forced to do another extension. What happens when you do extensions? Back in the States, they do not have any certainty in planning. It is not as if you can say: We know now that we have an extension for 6 months, we can spend X dollars for 6 months. You can't do it that way, and everyone knows that. You have to plan way in advance because you have to get the labor pool together, get the contractors together, you have to get the bids out. In this bill, we do have a provision that would have some projects that are ready to go, so the second this is signed into law we are going to start construction.

People will use this and say this is, in fact, a jobs bill—and it is. It is probably the biggest jobs bill we have had at one time since the WPA. For every $1 billion of road construction, that translates into 47,500 jobs, new jobs, good-paying jobs. Without this bill, of course, that is not going to happen.

We have a lot of people who are concerned, as I am, about donor State status. I can remember when we only had written into the law that each State would get back 75 percent of what they actually collected in their State. Slowly, over the years, I have watched it get increased. It has gotten up to the point where it is today, and this was passed 7 years ago. This was 90.5 percent; that is to say, every donor State will get back at least 90.5 percent of what they pay in.

The bill we had last year was enhanced up to $318 billion. That would provide every State got back a minimum of 95 percent. As it is now, with the smaller number, even with the enhanced number from yesterday's amendment, that brought it up by $11 billion to $295 billion. That still only brings the donor status to 92 percent. But that is better than 90.5 percent, where we are today.

If we have an extension, it will be 90.5 percent. There will not be any change.

The streamlining provisions of this bill will allow us to actually pave, construct a fairly decent percentage more highways and bridges than we would otherwise be able to do. Without this, and if we have an extension, we will not have this, and none of the environmental streamlining provisions will be there.

There are two different sections of the bill that relate to the financing. We have not changed our method of financing roads in 50 years. Since the Eisenhower administration it has been the same. We know there are better ways of doing it where you can have partnership types of arrangements, something that would be very good for our system. Without a new bill, that is not going to happen.

A lot of the States are on the border. We have a border program, a recognition that since NAFTA we have a lot of traffic through no fault of the States. You have to improve the NAFTA corridors we are talking about in this bill. Without this bill, we will not have that.

The chokepoints are not currently corrected. That is why we call this an intermodal bill. It is not a highway bill, not just a transportation bill, it is an intermodal bill because it is all types of transportation and the chokepoints in between. A lot of our problems are because of the chokepoints.

Last, we have firewall protection in this bill. The firewall protection provides if you pay money into the trust fund when you are getting 1 gallon of gas, that money is ensured to go toward building new roads. There are many in this body who do not think that is necessary. Many think we can go ahead and fund any kind of programs not relating to transportation out of the trust fund, and they have been doing it.

In fact, one of the Senators the other day was saying how offended he was that we are taking some of the fix that is there that is not in use; in other words, there is about a 5-cent credit that goes in and comes out of the highway trust fund. That has nothing to do with transportation. If you are going to establish a policy, pay for the policy but do not pay for it out of the highway trust fund.

I have often said this is a moral issue. There may be loopholes that allow politics to steal money out of the trust fund, but it is still a moral issue.

This bill has the firewall protection to make sure, for the first time, people cannot raid the highway trust fund. All these things are in the bill. If we do not pass the bill, we will have an extension, and none of these things are in the bill.

This is necessary to get this done, to pass this legislation, and not just go for another extension.

AMENDMENTS NOS. 569, AS MODIFIED, AND 602, AS MODIFIED, EN BLOC

Mr. President, I ask unanimous consent the Chambliss amendment numbered 569 and the Cornyn amendment numbered 662 be modified with changes at the desk and agreed to, that the motions to reconsider be laid upon the table en bloc.

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

The amendments as modified en bloc are as follows:

AMENDMENT NO. 569, AS MODIFIED

On page 217 after the matter preceding line 1, insert the following:

SEC. . 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a 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 route for 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

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, Waynesville, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

AMENDMENT NO. 662, AS MODIFIED

Strike section 1802(c).

Mr. INHOFE. I have left instructions if Senators arrive, interrupt us. We want to consider amendments. I am hoping I did not chase away anyone who is offering an amendment. We have about 10 amendments on the Republican side and about 10 amendments on the Democrat side. That is much better than yesterday with 173 amendments out there. We have made progress.

We agreed to two of these. If we can get the Members who are serious about their amendments to bring them down, this is the time to do it. I anticipate, as is normally the case, at the last minute Members will come down and say: I have to have time to present my amendment, and it will be too late. Now it is not too late. There is time to consider any amendment that is a germane amendment that is on the list.

What we have done is very difficult. We have worked on this bill for 3 years. We had this bill passed out of this Chamber and to conference a year ago this month. In conference, they dropped the ball, and we were unable to get it through.

This time, the conferees have learned we will be able to get it back to the House and back to the Senate, get it passed in both Houses, and have it signed by the President in time for the current extension that expires May 31. That is ambitious, but it can be done. We try to figure this out day by day and what can be done each day. I believe that will happen.

The reason this bill is better than most bills is historically we have not gone with formulas; we have gone with political projects. Some people call them pork. I don't call building a road pork.

What we could have done—we need to have 60 Senators to agree to this—we could have gone to 60 Senators and said, all right, we have a pot of money, and we will take care of your problem in Louisiana, your problem in Oklahoma, your problem in Arkansas, and get up to 60 Members, 30 States, and we will pass the bill and forget about the other Members. That is not fair. Historically, that has been done.

We tried to take every conceivable thing into consideration. The Presiding Officer represents a small northern State. We have provisions for the colder States, provisions for States out West, many of which, like my State of Oklahoma, are donor States. These are factors in the bill, in the formulas.

The formula for allocation also has such things in it as per capita fatality. My State of Oklahoma has a high fatality rate. What does that tell you? It tells you we have a problem with bridges and roads. That is a factor in how much money is distributed to the States.

The number of interstate lane miles is a consideration. The weighted nonattainment and maintenance area population is considered. The nonhighway recreation is a consideration. Regarding low-income States, mine is below the average in the State of Oklahoma. Low-population States—Senator BAUCUS has been very helpful in this bill. He is from Montana. Montana has less than a million people, but they have to have roads to connect all the interstate roads. Consequently, they will be in a position where it has to be a consideration that a low-population or low-density population State is going to be able to be treated fairly.

There are about 20 different considerations, but the bottom line is, you are never going to come up with a formula where everyone says this is perfect, this is just what we want, my State is being treated fairly. There are many things in the formula I do not like as chairman of the Environment and Public Works Committee, this Senator from Oklahoma. Nonetheless, I know everyone cannot be satisfied.

We have a good bill before the Senate. Members should realize how significant it is that we pass this bill and not just go to another extension.

Let me renew my request, as we will be doing every 15 minutes, for Members to bring their amendments. I know Members are out there and hiding. We will find you. We are open for business. We want you to come down and offer your amendment. We will have plenty of time to do it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I cannot commend the chairman of the Environment and Public Works Committee enough. He has worked extremely hard on this legislation. He is exactly right, if we are going to finish this bill, it is incumbent upon Senators to bring their amendments to the floor. It is the only way we are going to finish this bill.

As Mr. INHOFE, the Senator from Oklahoma, is imploring Senators to come down, I very much hope they heed his words. I thank him for those words because it is so important to get this legislation done now. It is Thursday afternoon, and it seems to me there is a lot of time to get most of this bill done today.

RULES OF THE ROAD ON JUDICIAL NOMINATIONS

Mr. President, this Nation's fast transportation system works. Why does it work? Because every day millions of individuals choose to abide by the rules of the road. On our Nation's highways, millions of people safely move great distances, at great speeds, in no small part because drivers respect other drivers and abide by the rules that oblige them to stay within the white and yellow lines painted on concrete and asphalt.

When you stop to think about it, it is incredible. Here are thousands of pounds in one car and another car hurtling toward each other, at high speeds, yet they do not hit each other. They miss because the drivers know they must stay, in America, on the right side of the road, in their lane, which prevents a catastrophe. It is amazing when you stop to think about it.

When drivers come to an intersection with a red and white stop sign, what happens? Drivers stop. Those of us on a cross street depend on drivers stopping. The other cars at a stop sign on other streets of the intersection also depend on that.

When folks come to a red light, they stop. They wait for a green light. They let the cars come through from the other direction. Few things create more danger in traffic than running a red light.

Mr. President, the Senate works much the same way. The Senate gets things done because day in and day out Senators choose to abide by the Senate's rules. The Senate has rules. We abide by them, and that enables us to get things done.

Every year, the Senate confirms hundreds of nominations, addresses hundreds of amendments, and enacts hundreds of laws because Senators respect other Senators and abide by the rules of the road.

In the 108th Congress alone, the Senate confirmed nearly 1,800 nominations, agreed or disagreed to nearly 1,800 amendments, and enacted nearly 500 laws. Yet in the 108th Congress, the Senate conducted just 675 rollcall votes.

So what does that mean? That means in the 108th Congress alone, the Senate made more than 4,000 decisions with fewer than 700 rollcall votes. In the 108th Congress, the Senate made more than 3,300 decisions by voice vote or by unanimous consent.

These numbers demonstrate what most Senators know in their bones: Five times out of six the Senate gets things done not by confrontation but by Senators abiding by the rules of the road and cooperating with other Senators.

That is why it is so troubling that some in this Senate now threaten to try to change the Senate rules by breaking the rules. They plan to disregard the rules and disregard the precedents. They want to run the red light.

The Constitution gives the Senate the power to set its own rules. Article I, section 5, of the Constitution says:

Each House may determine the Rules of its Proceedings. . . .

The Senate has determined its rules through adopting the standing rules of

the Senate. The Senate has readopted or made general revisions of its rules only seven times since 1789. The most recent general revision was in 1979.

The standing rules of the Senate continue from Congress to Congress. As Senate rule V says:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Rule V: ''The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.''

Now, Senators have the right to debate changes to the rules. Standing rule VIII spells out that, even under circumstances where Senators may not normally debate:

> motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.

Standing rule XXII provides the procedure for bringing debate to a close on:

> any measure, motion, [or] other matter pending before the Senate.

Senate rule XXII provides that ''any . . . matter'' includes nominations. That is how it is that Senators can debate at length any nomination that comes before the Senate, unless 60 Senators vote to bring that debate to a close.

And ''any measure . . . [or] matter'' within the meaning of rule XXII on debate also includes a proposal to change the standing rules of the Senate because rule XXII of the Senate's standing rules spells out the procedure for changing the standing rules. When it addresses bringing debate to a close through cloture, rule XXII says:

> [O]n a measure or motion to amend the Senate rules . . . the necessary affirmative vote shall be two-thirds of the Senators present and voting.

That is rule XXII. That is in the Senate rules, which continue over from Senate to Senate.

The Senate's rules, thus, provide a procedure for changing the rules. That procedure involves the regular legislative process. That procedure involves fair and potentially extended debate. And that procedure requires, if it comes to extended debate, ''the . . . affirmative vote . . . [of] two-thirds of the Senators present and voting.''

That is the way Senators can change the rules, if they choose to respect other Senators, if they choose to abide by the rules of the road, if they choose not to run that red light.

But what some are talking about is very different. What some are talking about is using brute force to change the rules. What some are talking about is running the red light.

Here is what they would do. They would use the raw power of the Vice President to sit in the chair of the Presiding Officer. They would have the Vice President make a ruling that bypassed the Senate's rules for amending the Senate's rules. They would have the Vice President make a ruling that bypassed the Senate rules for how long Senators could debate. They would have the Vice President make a ruling that broke the Senate's rules.

Now, article I, section 3, of the Constitution provides:

> The Vice President of the United States shall be President of the Senate. . . .

But that does not mean that the Vice President can make up the Senate's rules anew every day. The Vice President, just like any Senator, must abide by article I, section 5, of the Constitution, when it says:

> Each House may determine the Rules of its Proceedings. . . .

And when the Vice President acts as President of the Senate, the Vice President, just like any Senator, must abide by the standing rules of the Senate. To do otherwise, would be an abuse of power.

Mr. President, I urge my colleagues to resist those who would break the rules to change the rules.

Sir Thomas More, the British statesman and Lord Chancellor, resisted King Henry VIII when More felt that Henry had broken the law. In Robert Bolt's great play about More called ''A Man for All Seasons,'' More speaks about the importance of abiding by the law.

The character William Roper asks More:

So now you'd give the Devil benefit of law?

More counters:

Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper replies:

I'd cut down every law in England to do that!

More responds:

Oh? And when the last law was down, and the Devil turned round on you where would you hide . . . , the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

The Senate's rules protect us all. They protect the ability of the Senate to get things done through working together, not through majorities that cut down all the opposition.

For two centuries, the Senate's rules have protected the rights of the minority party, for Democrats and Republicans alike. After two centuries, it would be a mistake to cut down those rules.

At the center of that forest of Senate rules are two mighty oaks. But don't take my word for it. Let me quote the Senate majority leader.

In a forward that the senior Senator from Tennessee, the majority leader, wrote to a book published last year entitled ''Senate Procedure and Practice,'' the majority leader wrote:

> [A]bove all, together the Senate's rules and practices form a whole. It is a whole that faithfully reflects the Framer's design and ambition for the body. It is a whole that remains true to the Senate's two paramount values: unlimited debate and minority rights.

''[U]nlimited debate and minority rights.''

''[U]nlimited debate'' allows Senators to protect ''minority rights.'' The Senate's rules thus help to protect personal rights and liberties. The Senate's rules help to ensure that no one party has absolute power. The Senate's rules help to give effect to the Framers' conception of checks and balances.

Even law school dean and former judge and special prosecutor Kenneth Starr told CBS News that changing unlimited debate might damage the Senate. He said:

> It may prove to have the kind of long-term boomerang effect, damage on the institution of the Senate that thoughtful Senators may come to regret.

The Senate's right of unlimited debate is particularly important in the context of nominations for the lifetime jobs of Federal judges. The Senate's involvement in the confirmation of judges has helped to ensure that nominees have had the support of a broad political consensus. The Senate's involvement has helped to ensure that the President could not appoint extreme nominees. The Senate's involvement has helped to ensure that judges have been freer of partisanship and more independent.

The Framers wanted the courts to be an independent branch of government, helping to create the Constitution's intricate forest of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of personal rights and liberties from the winds of temporary majorities.

It is easy to push down the accelerator and cross that white line of paint, running across the concrete or asphalt. It is easy to push down the accelerator to run through that stop sign. It is easy to push down the accelerator and run through that red light.

But once one has been hit by a car running a red light, can one ever look at an intersection the same way?

The Senate works because, day in and day out, Senators choose to respect other Senators and abide by the Senate's rules of the road. If and when the Vice President and Senators start breaking those rules to change the rules, the Senate will never be the same. Once they run that red light, the rule of the road can never be the same.

I urge my colleagues to slow down, take their foot off the accelerator, and stop, before it's too late.

I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

ISRAELI INDEPENDENCE

Mr. DEWINE. Mr. President, one of the most gratifying aspects of serving in the U.S. Senate is the opportunity to come to this Chamber and talk about and celebrate the great events in American and world history. One such event occurred 57 years ago today, and that is the creation of the nation of Israel, the only democracy in the Middle East and the eternal homeland for all Jews around the world. Israel, our enduring friend and everlasting ally, was reborn from its biblical birthright on this day in 1948.

Two years ago on the 58th anniversary of the end of World War II in Europe and again this week on its 60th anniversary, I spoke about how American soldiers successfully fought both the fascism in Europe that spread like a cancer across that continent and Adolf Hitler's efforts to eradicate the Jewish race.

Last week, we honored the souls of those murdered in the holocaust on Yom Ha-shoa—the Day of Remembrance. And today we celebrate the result of all of this history which is Israel's independence.

My father, Richard DeWine, when he was serving in World War II in K Company, which was part of the Army's 103rd Infantry Division, went into one of the Nazi concentration camps—Dachau—after it had been liberated. Although K company did not participate in the liberation of Dachau, the 411th Regiment of their 103rd Division did liberate the camp at Landsburg, Germany.

When my father was at Dachau, a camp where over 28,000 Jews had perished, the prisoners had already left the camp. He has a vivid recollection, though, of seeing the ovens that the Nazis used to burn the bodies of so many of the prisoners.

He can still picture in his mind the devices they used to slide the bodies into the ovens and the many urns that contained the prisoners' ashes. He remembers going into a room next to the ovens and seeing fixtures on the walls that looked like showerheads. Those at the camp told him the prisoners were taken into these rooms and the prisoners were told they were going to take showers, but instead of water coming out of the nozzles, poisonous gas was emitted, killing them.

My dad remembers walking down the road near the camp and encountering a very weak, emaciated man who had, a short time before that, been a prisoner. My dad and his buddies talked to the man and gave him food and cigarettes. They asked the man, who a short time before had been a prisoner, if they could take his picture. He said, yes, as long as it is with an American soldier. So they did. My dad still has that picture today.

Carl Greene, who was also a member of K Company, remembers their visit to Dachau. He says some of the former prisoners in the camp still wearing those unforgettable striped uniforms actually served as their guides to show them around the camp, showing them the gas chambers and the crematorium and the area in the camp where the Nazis would shoot prisoners in the back of their heads.

K Company member Al Eucare, Sr., who was 18 years old at the time, remembers what he describes as one-man pillboxes that stood outside the gates of Dachau. These were cylindrical pipes that stood upright, just big enough for a man to fit inside. They were something of a sentry post. Each of these concrete tubes contained an open slat at the top and the bottom, where guns were placed to shoot at prisoners if there was a disorder as the prisoners went in and out of the gates.

Like my dad, Al also remembers the ovens at Dachau. He said when he was there, even though it was after the camp was liberated and the war had ended, there were still ashes and skeletal remains inside those horrible ovens.

Al also remembers seeing hooks—something akin to meat hooks—that the Nazis would hook dead bodies on like cattle, to move them more easily. He said they would put the bodies on by hooking them right underneath the jaw. He had heard stories that sometimes live Jews were placed on the hooks and left until they died.

General Dwight Eisenhower visited some of the death camps and reported back what he saw. In one of his reports, this is what the general described:

> On April 12, 1945, I saw my first horror camp. It was near the town of Gotha. I have never felt able to describe my emotional reactions when I first came face to face with indisputable evidence of Nazi brutality and ruthless disregard of every shred of decency. Up to that time, I had known about it only generally or through secondary sources. I am certain, however, that I have never at any other time experienced an equal sense of shock.
>
> I visited every nook and cranny of the camp because I felt it my duty to be in a position from then on to testify at firsthand about these things in case there ever grew up at home the belief or assumption that ''the stories of Nazi brutality were just propaganda.'' Some members of the visiting party were unable to go through the ordeal.
>
> I not only did so, but as soon as I returned to Patton's headquarters that evening, I sent communications to both Washington and London, urging the two governments to send instantly to Germany a random group of newspaper editors and representative groups from the national legislatures. I felt that the evidence should be immediately placed before the American and British publics in a fashion that would leave no room for cynical doubt.

That was Dwight David Eisenhower.

To think about it now, it defies credulity to consider that these atrocities were occurring and there were those who questioned their reality or those who today even question their reality. My father said that was one of the things that struck him when he visited Dachau 60 years ago—the idea that there were townspeople right there who would never admit the death camp was out there. He talked to people and they would not admit it. They said they didn't know anything about it. They didn't know what was going on so close. They acted as though it didn't exist.

Fortunately, the world came to reveal what was happening. The world knew, and although the rebirth of Israel came upon the heels of the modern tragedy of the Nazi death camps, it is important to remember that the Jewish people have struggled to regain their homeland ever since biblical times. The year 1948 marked the culmination of those efforts. After 6 million Jews were murdered in World War II, surviving Jews from across Europe and Asia made the trek to the holy land. They sought their homeland and peace. They obtained the former but not the latter.

One such man seeking a homeland and peace was Mark Steinbuch, the late father of one of my Judiciary staffers, Robert Steinbuch. Born in Poland, Mark and his family lived under Nazi occupation, relocated to Siberia shortly after the start of World War II, and then traveled for 2 weeks by cattle car to live in Soviet Kazakhstan.

Mark's extended family faced some horrific challenges. Many were killed by the Nazis. His cousins, the Hershenfis family, were forced into labor in the Pionki ghetto in Poland. In 1941, the family was shipped off to Auschwitz. Hanna and her brother Harry were separated from each other and from their parents Fay and Harvey. Fay and Harvey never made it out of the death camp. Hanna, tattooed with the number A14699, was shipped to an intermediate camp and then Bergen-Belsen. Harry—B416 to the Nazis—worked hard labor in Auschwitz for 4 years, and then, in 1944, was sent to another camp called Mauthausen.

On May 3, 1945, the Nazis fled the camp. That night, the skies opened and sent down a rainfall as if the world were being cleansed from the horrors it had seen. The next morning, the Americans arrived and the 11th Armored Division liberated the camp. Three days later, Harry turned 26.

After 5 weeks in an American hospital, Harry spent the next 3 years in a displaced persons camp in Austria. In 1949, Harry's wishes were answered, and he set off for America. Four years later, when Hanna also came to the United States, the siblings were reunited for the first time since they were shipped off to Auschwitz 13 years prior. Harry is 86 now and Hanna is a few years younger. Both are alive and well. Harry's sense of humor is strong, and he plays down the difficulties he faced. But we all know better.

Upon the defeat of the Nazis, Mark Steinbuch's immediate family went to Germany because, as Mark described it, ''that is where the Americans were

and, if you wanted to live, you went to the Americans.'' From there, Mark joined the Zionist youth movement and set off for Israel.

That, however, was no easy task. Traveling across Europe, often on foot to a southern port, he, his brother, and many others like them boarded an overloaded freighter renamed the ''Theodore Hertzl,'' after the founder of the Zionist movement. Upon the ship's arrival in Israel, the British quickly arrested its passengers and sent them to a holding camp in Cypress. Months later, Mark and the others were allowed to enter Israel.

Upon the joyous declaration of independence, seven Arab nations invaded Israel, and Mark quickly joined the army. Underage and flatfooted, he fought for the independence of this new democracy.

Mark's story is by no means unique. It not only represented the goals and desires of the Jews of postwar Europe but the dreams of a nation of people dispersed from their homeland for millennia.

Mark's dreams were realized a year later when armistice was struck. Israel survived its first challenge. It, like the Jewish people after the Holocaust, was still alive.

Since then, Israel's existence has been continuously challenged. Israel defended itself from foreign aggression during the Suez Canal crisis, the Six Day War, the War of Attrition, the Yom Kippur War, the war in Lebanon, and periods of extreme terrorism. Israel survived it all. OPEC blackmailed the world by withholding oil from the West because of their support for Israel. Israel's Olympic athletes were murdered by terrorists. And the United Nations equated Zionism with fascism. Israel survived it all and much more.

Israel is a survivor, but it is also so much more. The people of Israel have forested the desert, revived their language, built cities, and established a vigorous and ever-growing community.

We support Israel because it is a democracy, because it shares our values and ideals, because it has been willing to suffer attacks at our request, and because simply it is our friend. We welcome other nations to choose to be the same, and for the many that have, we share the same relationship.

America is a nation of justice, fairness, and principles. So is Israel. And on this day, we wish our friend a happy and joyous anniversary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

RETIREMENT SECURITY

Mr. DURBIN. Mr. President, I rise this afternoon to speak to the Senate and those following this debate about a dramatic change that is taking place in America, even as we meet and discuss so many other important issues. One of the pillars of family security in America is crumbling. Retirement security in this country is in a crisis. The defined benefit plan, the kind of pension plan that guarantees a retirement amount to a worker who gives a lifetime of loyalty to his company or his employer, is becoming an endangered species.

The number of employees covered by employer-paid defined benefit plans has fallen from 30 million to 22 million in the last 20 years. By contrast, the number of people in defined contribution plans, into which both worker and employer pay with no guaranteed payout, has grown to about 55 million from 19 million.

This trend, along with the steep losses that people with defined contribution plans, such as 401(k)s, have experienced in the last few years, and President Bush's plan to shift part of the Social Security guarantee into private accounts, frankly, means that we are going to put at risk retirement security in America, more than we have seen in modern times.

Tuesday night, a bankruptcy court decided to allow United Airlines to shift responsibility for its defined benefit pension plan to the Federal pension insurance system. United Airlines moved all four of its pension plans into the Pension Benefit Guaranty Corporation with the promise that United Airlines would pay that corporation $1.5 billion. The willingness of PBGC to accept this arrangement, unfortunately, rings the death knell for defined benefit pension plans in America.

United is the latest and the largest example of the fact that corporations are no longer keeping their promises to employees, and the Government insurance system that was designed to protect employees in the case of such catastrophe has become overused and underfunded to a critical State. And this, coupled with the lack of personal savings, with the dramatic increase in consumer debt of families across America, with the growing vulnerability of families to medical bills, and with the assault on guaranteeing benefits of Social Security by this administration, is leading this Nation to a point that could not even have been imagined just a few years ago.

There used to be a three-legged stool that you could count on for your future. Everybody knew it. You went to work; every payroll you paid into Social Security, which would be there when it came time to retire; you took some of your paycheck and you paid into your pension system, if the company provided one, and then, if you could, put some money into savings. The idea is that all three would come together to give you a sense of security and comfort in your old age.

The Chicago bankruptcy court that decided Tuesday night that United Airlines could walk away from its pension commitments unfortunately foreshadows many changes to come, and none of them positive, for working people and working families across America.

United Airlines, the second largest airline in America, is in bankruptcy. It took the pension liability which it had into the bankruptcy court and said: We have to walk away from it. The bankruptcy court agreed. And when United Airlines turned over all of its pension plans to the Pension Benefit Guaranty Corporation, it basically said it would save $645 million a year that it would not have to put into the promised payments to pension plans for its employees.

Judge Eugene Wedoff presided over that decision. To an overflow courtroom on Tuesday, he said this was unavoidable. To quote him exactly:

> The least bad of the available choices here has got to be the one that keeps an airline functioning, that keeps employees being paid.

And that was the choice. From his point of view, to ask United to pay what it promised to pay to its employees and to its retirees would mean that the airline may cease to exist. But to walk away from those responsibilities for the employees and to say instead that the airline would survive certainly raises many troublesome questions.

The way that the Pension Benefit Guaranty Corporation is structured, it only guarantees that a part of pension plans it took over from United and other companies based on a pretty complicated formula would actually be paid to the employees. So many employees, whether United Airlines employees or others whose plans are taken over by this corporation, lose part of their pensions. In this case, it is estimated that United employees will lose an average of 25 percent of their pensions under this arrangement.

Keep in mind what these employees have been through. They have been battered by record layoffs. They have made voluntary pay and benefit reductions for years. They have increased their hours. They have made a lot of personal sacrifices to reach this point. And now, as it appears their airline was nearing the end of bankruptcy, comes this decision to walk away from the pension obligation.

United is the second largest airline. It operates more than 3,400 flights a day to more than 200 destinations. It is based in my home State of Illinois. It has 60,000 employees and thousands of retirees, all of whom will be affected by this decision.

Let us take a look at each of the groups of employees at United and how they will be impacted. The United flight attendants pension plan covers 28,600 participants. Under this Government takeover of the pension plan, the most senior flight attendants will receive about $500 less a month than the $2,500 they were promised in pension payments, about a 20-percent cut. This is significant because most of them have never earned more than $40,000 a year. Flight attendants who are less senior and have less flying hours with the company could lose up to half of what they would receive with their promised pension plan. They have said

they may strike on this. I hope it does not come to that, not just because of the fact that it is a corporation in my State but because I am a loyal customer of United.

Sixteen Senators recently joined me in a letter to the Pension Benefit Guaranty Corporation asking for that agency to explain why it agreed with United to turn over all four pension plans since as recently as 2 weeks ago officials of the same agency told negotiators they thought each plan should be considered separately. The flight attendants were told at the time their pension plan might have been saved, but now, sadly, it has been lumped in with all the pension plans at United and faces dramatic cuts.

Take a look at the ground employees, the mechanics, the people who fix the airplanes and maintain them and handle the bags. There are 36,100 of them at United, both active and retired. They were promised benefits of $4 billion. Their plan has only $1.3 billion in assets. So based on this agreement with the Pension Benefit Guaranty Corporation, on average, they will lose about 25 to 27 percent of their pension benefits. Retired members were promised an average benefit of $1,400 a month, and they could lose on average 19 percent of that promise.

While United was back in court on Wednesday asking for further concessions from the unions on their contracts, the International Association of Machinists and Aerospace Workers announced that 94 percent of its United members had authorized a strike if their contract to work was cancelled. The machinists may feel they have no choice. This, of course, would throw United's financial future into more uncertainty and jeopardy.

The United pilots have a pension plan that covers 14,100 people. The pilots reached a deal with United last year to save much of their benefit, but it is unclear how that will be affected by this new agreement with the Pension Benefit Guaranty Corporation. Pilots have generous pensions. They fly some of the most demanding routes. They have to be well trained and well skilled, and they, of course, are examined constantly to make certain they have the skills to be pilots. They would normally expect to see anywhere from $80,000 to $100,000 of pension benefits after a lifetime of service to the airline, but if this Government agency takes over, the maximum guarantee the Government offers is no more than $45,613 per person for those who retire at age 65 in the year 2005. Keep in mind, pilots are forced to retire at age 60 under rules governing pilots in America, so they would receive less than $45,613. A Government takeover would cut most of their anticipated pension benefits by as much as half.

Under the management plan, there are 42,700 participants encompassing administrative and public contact employees. This is more difficult to quantify in terms of their pension loss. However, the machinists union, which represents some of these workers, says the ramp employees could lose up to 59 percent of their promised pensions, and public contact representatives could lose up to 55 percent. These estimates take into account the likelihood that United will offer a 401(k)-type plan once it emerges from bankruptcy. As we know, there are no guarantees with a 401(k) any more than there is a guarantee that if one buys a mutual fund or a stock today that it will be worth more tomorrow. It is a gamble. It is a risk. It can play an important part in savings toward retirement, but it certainly does not provide any guaranteed benefits such as those that existed for employees who worked at United for decades. It is a gamble that the President is contemplating to bring to Social Security by privatizing Social Security: Let us move from guaranteed benefits in Social Security to the possibility that one will do well in the stock market.

Well, if a person's pension is in trouble now, and it may not survive the bankruptcy court, and the future of Social Security under the President's plan puts one at that same risk when it comes to investment, how can a person be certain they will ever be able to retire? How did we reach this point?

Pension promises that in hindsight may have been unrealistic were made. The terrorism of 9/11 changed the market for airlines across America. High fuel costs, increased competition from startup carriers all contributed to the losses that brought United into bankruptcy.

Last year, I supported a measure known as the Pension Funding Equity Act. We passed it hoping that we could temporarily use an alternative calculation to lower pension liability payments and to make our way through this stormy situation. It did not work. Now United Airlines is not alone in this predicament. Delta Airlines' pension plans are underfunded by $5 billion, and it has threatened to file Chapter 11. Northwest Airlines may be in trouble, too, according to equity researchers at Bear Stearns. And we should believe that a lot of other airlines are looking with great interest at United Airlines and its current situation.

Some people at American Airlines have said they want to keep their pension plans, but they are concerned about the competitive advantage United will now have because it does not have to fund its own pensions.

After the airlines, retirement experts say the auto industry may be the next to default on its defined benefit plans, leaving virtually no companies left that offer guaranteed retirement benefits. Let me give some illustration of this.

Today's Wall Street Journal says:

> By far, the industry accounting for the biggest portion of underfunding is auto makers and automotive-parts companies. The plans of those companies are $45 billion to $50 billion shy of promises made to workers.
>
> Delphi Corp., the No. 1 U.S. auto supplier, is struggling with declining sales at its top customer and former parent, General Motors Corp., plus big pension obligations and higher raw-materials cost. Delphi has an unfunded pension liabili-ty of $4.3 billion and $9.6 billion in retiree health-care liabilities. . . .

We are in the midst of debating the asbestos bill. It is interesting on this asbestos bill the lineup of groups supporting it. That is another outstanding liability for companies like General Motors. Many of us believe the trust fund in the asbestos bill is underfunded. We believe many major corporations with asbestos liability are anxious to sign up for the trust fund because they will be the benefactors more than smaller and medium-sized corporations. So both General Motors and the United Auto Workers have endorsed the asbestos bill.

Certainly, they have to look forward and say asbestos liability will threaten the payment of health care benefits and retirement benefits to the workers. So here there is a situation where victims of asbestos exposure may receive limited compensation under the trust fund plan that has been endorsed by companies that expose them to asbestos because those companies want to limit their liability in the future because of such things as pension liabilities.

As we can see, this is a free-for-all and the losers ultimately are going to be either victims of asbestos exposure, in this instance that I used, or the workers themselves and we'll see retiree benefits disappearing.

The United Airlines deal is the largest pension default in the history of the United States. Before it, Bethlehem Steel's $3.6 billion pension default in 2002 set the record. There is a pattern, and the pattern is that the workers get hurt the most.

I am offering legislation with Senator KENNEDY and Congressman GEORGE MILLER of California that would attempt to make it more difficult for corporations to offer superior pension deals to their high-ranking directors and officers while the company is shifting its unfunded pension liabilities to the Government or treating older workers unfairly during a conversion from a traditional defined benefit plan to a cash balance plan.

Why in the name of fairness and justice should the officers of a bankrupt corporation be receiving superior pension deals and bonuses while the people who faithfully worked for that company for decades are being cut loose, their jobs eliminated, or the promised retirement benefits are not paid? If there is any justice in this done, we should demand of these corporate officers that they at least sacrifice to the same level as the employees who are the victims of their mismanagement. Rank-and-file workers should not be sent to the back of the line in bankruptcy court while executives get a free pass. Time and again, workers have faced the back of the line in this country.

Mr. President, you may remember an amendment I offered to the bankruptcy bill a few weeks ago. It was rejected overwhelmingly by the Senate. Let me tell you how radical this amendment was. It would have allowed bankruptcy courts to reach back and take the sweetheart deals that were given to these officers and CEOs and put the money back into the corporation to benefit the employees and the retirees.

I gave the example of several CEOs, including Ken Lay of Enron, who abuse their companies. You remember reading about Dennis Koslowski of Tyco. This man had a unique lifestyle at the expense of his corporation. He had the corporation buy his family a shower curtain. Well, what is wrong with that? Mr. Koslowski did some pretty shrewd shopping. He found a $30,000 shower curtain. That takes some doing. He took the money out of the corporation, while it was facing financial trouble, and then turned and said to the employees: Sorry, we are going to cut you loose. Retirees, we can't pay what we promised you, and shareholders, you lose, too. So for his shower curtain deal and a lot of other things, I think Mr. Koslowski should have been held accountable. He was in criminal court, but he certainly should be held accountable.

Bernie Ebbers, CEO of WorldCom, didn't piddle around with a shower curtain; he took $408 million out of a company right before it went into bankruptcy court. How can we sit around and say: That is OK, that is management; those guys are in the boardroom; don't worry about them; but say to the worker out in the plant or to the retiree who is counting on a retirement benefit plan or the shareholder: You are going to have to lose because Mr. Ebbers needed $408 million out of the company before he dumped it in bankruptcy? We should have recaptured the assets he took out of the corporation before it went into bankruptcy. Maybe it would not have made the corporation solvent, but at least it would have been a fair allocation of the resources of that corporation to the people who deserve the benefits from them in bankruptcy.

My amendment lost on a vote of 40 to 54. It was entirely too radical for the Senate, to think that these CEOs would be held accountable for their conduct, that they would accept personal responsibility for what they did. No way. Yet their workers and their retirees had to pay the price. They were held responsible for this terrible mismanagement.

We also tried to raise the minimum wage during that bankruptcy debate. I guess we are just wasting our time in this place. It has been over 8 years since we raised the minimum wage in this country. We were told the head of a family who works 40 hours a week at a minimum wage and has two or three kids should not be able to lift his family above poverty. At a time when we have record productivity in our corporations and record corporate profits, why in the world can't we bring ourselves to make certain that workers in America get fair compensation? I don't understand it. If we value work and value families and value children, why aren't we paying a decent wage to many people who get up and go to work every single day, sometimes two jobs a day? But, no, we can't pass that here. That is too radical.

Now the President wants to privatize Social Security. He wants to make sure that two of the sources of retirement security—Social Security and pensions—will no longer have guaranteed benefits. The third source, of course—private savings—has never been guaranteed. President Bush says that is part of the ownership society. But, unfortunately, we are headed for a society for the owners, by the owners, and of the owners, where the workers are more vulnerable than they have ever been in generations in America.

We ought to step back for a second. We ought to try to decide what is important in this society in which we live. Is it important for us to protect the CEOs from their mismanagement of these companies? Is it important for us to say to Mr. Bernie Ebbers, You won't be held accountable for taking $408 million out of the corporation you dumped in bankruptcy? Is it important for us to make sure that people who make more than $1 million a year get handsome tax cuts while we are deep in debt as a nation, trying to come up with the money to fight a war, or is it more important for us to give fair compensation to people who go to work? Is it more important for us to step up and talk about guaranteeing and securing the pensions of hard-working people, who stayed with a job year after weary year because a husband says to his wife: Honey, I am going to hang in there for 2 years because I get my retirement. And look what happens. Months before you retire, or even months after you retire, they pull the rug out from under you.

This is a looming retirement security crisis. Baby boomers are set to retire in large numbers in just a few years. This country is not saving for retirement. Our 401(k)s have taken a huge hit in the last 5 years. Defined benefit pension plans are almost extinct. Medicare is running a huge deficit. And Social Security has been targeted for benefit cuts. The three-legged stool of retirement security is looking a bit wobbly today.

Listen to what people around the country are saying about retirement insecurity. An editorial in the Denver Post said this:

> The retirement benefits offered by Social Security were originally designed as one leg of the three-legged stool that also included a worker's pension and a family's private savings. But American families don't save like they used to, and the national saving rate has been declining for the last 35 years. At the same time, American companies as a whole have been cutting back—or in some cases defaulting—on the pension coverage they once offered employees.

Listen to this letter to the Contra Costa Times in Walnut Creek, CA:

> I am a retired 74-year-old woman and get Social Security benefits, a private pension, payments from 401(k)s. Prior to the dot-com disaster a few years ago, my 401(k) was worth almost $300,000. It quickly dropped to half, [that value] and is slowly recovering. If it were not for my pension and Social Security, I would be very, very nervous about how I would survive what remains of my life.

Another letter to the editor dated March 16 from a Shreveport, LA, paper:

> In this time of corporate scandals, lost pensions, and stagnant wages, working people need something that is guaranteed and risk-free; that was always the genius of Social Security. . . . Social Security does need improvement, but that should mean ensuring benefits, not putting them on a Wall Street roller coaster. There are plenty of opportunities to invest in the stock market. Congress and the president should strengthen Social Security to make sure working people get the benefits we've paid for. We deserve it.

We owe it to our workers and their families to take an honest look at these issues and come up with some real solutions. We need to take a look at the Pension Fairness and Full Disclosure Act. We need to strengthen Social Security, not weaken it by privatizing it. We should encourage people to save for retirement, create incentives, tax incentives and other payroll incentives, for people to save. And we should encourage companies to pay what they promised workers and not allow them to get away with underfunding their pension plans.

As part of the reform of the Pension Benefit Guaranty Corporation, premiums are necessarily going up, and the companies that underfund their pension plan will have to pay more into it so the guarantee of this Pension Benefit Guaranty Corporation is worth something. We need to make sure that this agency meets its obligation to all American workers.

Today, the Pension Benefit Guaranty Corporation is $23 billion in debt. Who is going to bail it out? At a time when we are going to give $32 billion in tax cuts next year to people making over $1 million a year—$32 billion to people making over $1 million a year—at a time when we are facing record deficits, at a time when we are concerned about the survival of Medicare and Medicaid, it is clearly time for some thoughtful leadership in this country.

What happened with United Airlines, sadly, is a symptom of a real problem that is undermining the retirement security of every American family. We have been diverted from looking at the broader retirement security issues by the administration's Social Security privatization proposal. It is time to look at how to address the entire retirement income equation and provide more security, not less.

There was a time in America when we valued work, we valued workers, we valued the worker's family, and we said: We are going to provide you with basic dignity. You get up and go to work every single day, you set a good

example for your family, you contribute to your company and your community, and America will be a better place and we will stand behind you. We will make certain that when the day comes for retirement, no matter what happens, Social Security will be there to provide some basic safety net for you and your family. We will watch the workplace for you, too. We will do our best to make sure it is safe so you are not injured while you are working on the job. If you are injured, we will see you are compensated fairly.

When it comes to the wage you earn, we hope you will do better than the minimum wage, but we will guarantee there will be a minimum wage in America so there will be some basic dignity in work and the hardest working people in America, trying to raise a family, can get by.

It was part of a social contract. It was America as a family, coming together. We were protecting our own. We were committed to our own. But there is a new attitude in Washington. You can feel it. That attitude of the so-called ''ownership'' society says, remember this, we are all in this alone. We do not come together to help one another, to protect one another, to care about one another. That is abandoning a fundamental principle in America.

We believe in the goodness of the people who live in this country. We believe in the fairness of our economic system. We believe the Government should stand for justice in a system where unjust things are occurring. But if you look at what happens in the Senate and the House day in and day out, time and time again, one wonders if we walked away from that commitment. We wonder if we are not dealing with some situation of noble savages being turned loose in a wilderness with the hope they survive. I hope it does not come to that.

Sadly, for tens of thousands of United Airline employees who just a few years ago were glorying in the fact that they work for one of the best airlines in the world, the bottom is falling out. The pension they worked for, for a life, is disappearing. They have taken wage cuts. The future is totally uncertain.

There are no guarantees in a free market system. There are winners and losers. But when you have made a promise to an employee, shouldn't you be held to that promise? Shouldn't you have a social contract, a binding contract, that the promise won't be broken?

I am afraid it has been broken here. This pillar of family security in America is crumbling. What will your Congress do to deal with it?

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to make a few comments about the SAFETEA legislation. I thank the managers of the bill for working with us in trying to address some of the concerns I had about the prior legislation from last session.

As I stood here over a year ago when we debated this bill, I spoke very critically of that legislation and the damage that legislation did to Pennsylvania. Thanks to the Senator from Oklahoma and the Senator from Missouri, in particular, we have been able to address some of what I consider to be inequities in this legislation.

The point I made a year ago was that one of the major reasons for a Federal tax on gasoline in a Federal highway bill was the idea of promoting interstate commerce. Originally, the interstate system was certainly put in place for military purposes—at least ostensibly for military purposes—to move things around the country in a national emergency.

Obviously, the more pedestrian reason, if you will—probably that is a bad word to use when we talk about highways, but nevertheless, the reason that is most often used is because it is for interstate commerce, to move goods around the country, to move people around the country, for travel and tourism, a whole host of other reasons.

When you look at why the Federal Government does that, you have to step back and say transportation is a State function. Every State in the country has a transportation department. Why do we need a Federal transportation department? We need it because we have to make sure the goods that are produced in New Jersey can get to Ohio to Texas, or the goods produced in California can get to Georgia.

The fact is it is important for us to be connected. If there are situations where States are in financial difficulty and they let their roads degrade, particularly the major interstates—for example, my State is occupied increasingly with traffic that does not stop in Pennsylvania—there would be much more of an impetus if you were a local legislator to invest money on roads which Pennsylvanians used and invest a lot less money on roads that are used by folks out of State.

So we put together a Federal tax system, a gas tax, as well as Federal transportation legislation, to promote on the highway side—the transit is another piece, but we will talk about highways for a moment—to promote interstate commerce.

So we have a situation where we have States that shoulder a large burden when it comes to that interstate commerce and we have other States that are the great beneficiaries as to the burden those States shoulder in getting a lot of what is referred to as passthrough traffic. That is traffic that does not stop in your State, does not benefit your State economically, to speak of, but, in the case certainly of trucks, beats the heck out of your roads. So you are in a sense carrying the load for States that are the economic beneficiaries, whether they are the originator of the freight or the destination of the freight, whether you are a State that is a passthrough State for travel and tourism. Those are the States you want to pay particular attention to. Again, the nature of the program is to make sure we have a seamless highway system, that we have good interstate commerce.

The reason I came to the floor last year was to point out that Pennsylvania is a State that certainly shoulders the lion's share or certainly major share of this passthrough traffic. We have in Pennsylvania about as many interstates as any State in the country. I think there are three States that have more interstate miles. Texas, California and Illinois are the only three that have more interstate miles than Pennsylvania. We have 22 interstates in Pennsylvania. Actually, another one is under construction.

There are only four States that have a higher number of ton-miles than Pennsylvania. Again, they are much bigger States than little old Pennsylvania, Texas, California, Ohio and Illinois.

I will show a chart that shows the importance of interstate commerce and what Pennsylvania has to deal with. First, the statistic I throw at you, 47 percent of the trucks that go through Pennsylvania do not stop in Pennsylvania. They do not originate there and are not destined for there. We get a lot of traffic from the New England States—New Jersey, New England—that goes through Pennsylvania to get out West or comes down through Pennsylvania to get down to the South. These lines are the traffic that goes through Pennsylvania that does not stop, coming from way out here in Seattle, and they go way up to Maine and lots of points in between.

We see the resulting effect on the load of traffic in Pennsylvania. This is the Pennsylvania Turnpike, the big thick black line. That is more than 80 million tons of traffic passing through Pennsylvania on this one road. We see several others that have between 60 and 80 million tons of truck traffic, heavy truck traffic. We have heard in the Senate the vehicles that do the most damage to the highways are your heavy trucks.

Yes, we are in an industrial area. We have a lot of heavy steel, coal, and lots of other products that travel through our State. They do an enormous amount of damage. You throw on top of that the mountainous terrain we have in Pennsylvania, the numerous bridges. We have several thousand bridges that are in disrepair. We have lots of bridges, we have lots of mountains, we have a lot of freezing and thawing in Pennsylvania which wreaks havoc on the roads. So we have a lot of problems we have to deal with compounded by this heavy through traffic.

When I came to the Senate last year and said I was going to oppose the bill in the Senate—because here is a State, I argue, that is one of the poster children for a Federal Highway System

that focuses money on States such as Pennsylvania because it carries such a heavy burden for the rest of the country without any direct economic benefit. This was a State, logically, given the topography, the climate, and the congestion and traffic we bear, it would be a State that should do well under a Federal formula. Certainly as Members have said to me in the past, we have.

However, under the bill last year, we actually became a donor State. We became a State that was going to subsidize the rest of the country. Here we are in Pennsylvania with this heavy burden of truck traffic. We rank fifth in the country in ton miles in Pennsylvania. Here is little Pennsylvania.

(Mr. ISAKSON assumed the Chair.)

Mr. SANTORUM. Mr. President, you have States such as Texas and States out West and many other States that are bigger geographically, such as Georgia. Yet Pennsylvania is fifth in the country in the ton miles our roads have to sustain. So what we are asking for is a little bit of equity.

I see the chairman is in the Chamber. We have gotten equity, at least some degree of equity. Everybody always thinks they should always get more equity, but we have gotten some degree of equity in this bill. We are not, under this bill, a donor State. Being one I think was underserved. But we still, thanks to the chairman's amendment, get only a 15-percent increase in the amount of funding from the last bill to this bill. That is lower than any other State in the country. Actually, we tie with two other States as getting the lowest rate of increase. So we are a donee State, but we are declining as far as the amount of money.

I would argue that is inappropriate given what I have laid out here and the purpose of a Federal highway bill. But we have done better. And we have done well enough that I, as you saw from the votes I have cast on this bill, have supported this legislation and will certainly support passage of this legislation.

We have a serious problem in Pennsylvania. We have a lot of bad roads. Twenty-seven percent of our roads in Pennsylvania are rated by the Bureau of Transportation Statistics as mediocre to poor. I see the Presiding Officer from Georgia. We have 27.1 percent of our roads rated mediocre to poor. Georgia has .2 percent rated mediocre to poor. Georgia, under this bill, receives a 30-percent increase. We receive a 15-percent increase. The Senator from Georgia just happens to be in the Chair, and I just wanted to point that out because it is a pretty big contrast.

The Senator from Georgia has fought hard for his State, and he is a donor State, so I know he believes he deserves more. He has fought very hard and, obviously, very effectively to make sure his State has been treated, in his mind, and I am sure in the minds of the people of Georgia, more equitably.

But I would make the argument that States around the perimeter of America really do benefit from States such as Pennsylvania, Ohio, Indiana, and the States through the middle part of the country that have to carry all this traffic to and from the border regions. That is why, if you look at the formula, most of the States that do not do well under these formulas are border States. Again, the reason is they do not have to carry the passthrough traffic, particularly the heavy traffic that we in Pennsylvania have to carry. In addition, they do not have the weather problems and the topography problems and a whole host of other problems that we have to deal with. Forty-two percent of our bridges in Pennsylvania are structurally deficient or obsolete. We have serious problems.

So when I came here last year and opposed the bill last year, I did so because of the concern I had about the way my State was being treated. I am grateful, again, to the chairman for his effort to bring Pennsylvania into some semblance of equity. I thank him for that. I thank the chairman of the Banking Committee, Senator SHELBY, for the work he has done with me on the Banking Committee on the transit piece. Transit is a very important piece of the transportation infrastructure of Pennsylvania. In Pennsylvania, for example, 70 percent of the cost of our transit system is provided for by the State. There are seven States that do not contribute anything to their transit systems. Twenty-eight States contribute less than what the Federal Government contributes to their transit systems.

So we made a major contribution in Pennsylvania to transit. I thank the chairman of the Banking Committee, Senator SHELBY, for making sure Pennsylvania is treated fairly under this legislation.

One final point I would like to make. I see my colleague from Ohio is here. He probably can make a similar argument about the passthrough traffic that goes through Ohio.

I thank the chairman for his effort on the Job Access and Reverse Commute Program. There is a 73-percent increase over TEA–21. This is a piece of legislation that we were able to get into TEA–21. It has been a very important program for a lot of our innercities to be able to get to jobs out in the suburban ring where job development is certainly faster than it is in the core innercities. This transportation program has proven, at least in my State—in Pittsburgh and Philadelphia in particular, and Harrisburg and other places—to be a very important project, to be able to increase the number of employed in the core urban areas with better quality jobs, and the availability of a better life. So I thank the chairman for his increase, and I certainly hope he will hold that increase in conference.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me just respond to some of the things the Senator is talking about. First of all, Senator SANTORUM has done a great job leaning on us and talking to us and is largely responsible for the fact that we made a major change in this bill. This change increased the amount that will be going to Pennsylvania by $208 million.

But I would like to say this: When you talk about the miles of substandard roads and highways, Oklahoma has a larger percentage that are substandard than Pennsylvania. I am not saying it because I am proud of it, because I have not been doing my job, I suppose, but in terms of the percentage of substandard bridges, Oklahoma is considerably higher than Pennsylvania.

Now, what it does point out, though, is the necessity for this bill because we are going to try to correct all these things. We will not be able to do it in 1 year, but by the end of this authorization period, we are going to look a lot better than we are now—but not if we have to continue to operate on extensions.

So I appreciate the comments. And I do not disagree with anything that the Senator says. I believe when you sit down with people and talk about a formula—it is interesting, the previous Presiding Officer is from Texas. I am not sure he agreed with everything that the Senator from Pennsylvania said. But it is a very difficult thing to do.

So I appreciate the cooperation the Senator has given and the influence he has put on this legislation which has helped us make this a better bill. I appreciate that very much.

Mr. SANTORUM. I thank the Senator.

Mr. INHOFE. Mr. President, I say to the Senator from Ohio, I know you are attempting to get the floor for something other than the bill, but we do have someone coming down with an amendment. Would it be permissible, if you were to use the floor, that when someone comes with an amendment, you would yield to them, or is that something you would be uncomfortable with?

Mr. DEWINE. If the Senator will yield?

Mr. INHOFE. I will.

Mr. DEWINE. I have a tribute to a soldier who was killed, and it will take no more than 10 minutes. So once I start, I would not want to stop. But I will not start until you want me to start.

Mr. INHOFE. I understand. But you would attempt to do it in 10 minutes?

Mr. DEWINE. Yes. I will certainly do it in 10 minutes.

Mr. INHOFE. The Senator could wait until you are finished.

Mr. DEWINE. I could wait to start until later if you want.

Mr. INHOFE. No, I suggest you go ahead. I say to the Senator, after the Senator gave his eloquent talk about

the safety problems that are out there throughout America right now, I came to the floor and talked about the safety core provisions that are in this bill, that if we are on an extension, as opposed to passing a bill, people are going to die. This is a life-or-death issue. I think you brought that out very forcefully, and I know it comes from the heart.

Mr. DEWINE. Mr. President, I appreciate what my colleague has done. The Senator from Oklahoma is absolutely correct that if this bill is passed, these provisions will be in there, as well as a lot of new construction that will save lives as well.

Mr. INHOFE. Very good. I yield the floor.

(The remarks of Mr. DEWINE are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding the junior Senator from Virginia has an amendment he wishes to offer. It affects the commerce title of the bill. I ask if Senator STEVENS would like to come down, since this is the commerce title of the bill, while he offers an amendment.

Mr. STEVENS. Yes.

AMENDMENT NO. 611

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I call up amendment No. 611.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself, and Mr. Ensign, proposes an amendment numbered 611.

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

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

The amendment is as follows:

(Purpose: To modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code)

Strike section 7216(a) of the bill and insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

''§ 405. Safety belt performance grants

''(a) IN GENERAL.—The Secretary of Transportation shall award grants to States in accordance with the provisions of this section to encourage the use of safety belts in passenger motor vehicles.

''(b) GRANTS FOR SAFETY BELT USE.—

''(1) IN GENERAL.—The Secretary shall make a single grant to each State that has a State safety belt use rate for the immediately preceding calendar year of 85 percent or more, as measured by the National Center for Statistics and Analysis.

''(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c).

''(3) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years, as measured by the National Center for Statistics and Analysis.

''(4) CATCH-UP GRANTS.—The Secretary shall award a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because its safety belt use rate is 85 percent or more for the calendar year preceding such next fiscal year.

''(c) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall award additional grants under this section from any amounts available for grants under this section that, as of July 1, 2009, are neither obligated nor expended. The additional grants awarded under this subsection shall be allocated among all States that, as of July 1, 2009, have a seatbelt usage rate of 85 percent for the previous calendar year. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

''(d) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant awarded under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

''(A) intersection improvements;

''(B) pavement and shoulder widening;

''(C) installation of rumble strips and other warning devices;

''(D) improving skid resistance;

''(E) improvements for pedestrian or bicyclist safety;

''(F) railway-highway crossing safety;

''(G) traffic calming;

''(H) the elimination of roadside obstacles;

''(I) improving highway signage and pavement marking;

''(J) installing priority control systems for emergency vehicles at signalized intersections;

''(K) installing traffic control or warning devices at locations with high accident potential;

''(L) safety-conscious planning;

''(M) improving crash data collection and analysis; and

''(N) increasing road or lane capacity.

''(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

''(e) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants awarded under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

''(f) FEDERAL SHARE.—The Federal share payable for grants awarded under this section is 100 percent.

''(g) DEFINITION.—In this section, the term 'passenger motor vehicle' means—

''(1) a passenger car;

''(2) a pickup truck; or

''(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.''.

Mr. ALLEN. Mr. President, the purpose of the amendment I have offered, along with Senator ENSIGN of Nevada, is to make sure safety belt incentive grants are awarded based on a State's seatbelt use rate, not based on a prescriptive mandate from the Federal Government that a State must enact a primary seatbelt law to receive Federal funds.

I have long opposed Federal dictates, whether direct or indirect, on States to enact a primary seatbelt law. This brand of nanny government precludes American adults from making basic decisions for themselves and could hamper law enforcement's ability to effectively patrol the streets and highways for more serious and egregious offenses. It is generally a waste of scarce time and resources for local police officers to pull over an adult and write a ticket to fine someone who was, theoretically, potentially harming himself or herself by not wearing a seatbelt. Our citizens would be better served if a law enforcement officer, rather than writing that ticket, because someone was otherwise driving safely down the road, was actually finding someone who is weaving down that same stretch of road as a drunk driver, clearly a danger to themselves but more importantly to others. Law enforcement resources are not unlimited. I believe police officers have more pressing needs than craning their necks to make sure every licensed driver on the road has a buckled seatbelt.

This is not an issue of interstate commerce. This is not a civil rights issue. This is not in the U.S. Constitution. This is an issue of enforcement of seatbelt laws, and what laws a State might want to have is and has long been under the jurisdiction of the people of the States. I don't believe that nanny mandates such as this initiative should come from government. But if it is going to come from a government, it ought to be coming from a State government, certainly not the U.S. Congress. State legislators provide a much closer representation of the views and beliefs of their respective constituencies in this country. I am a firm believer that the laws of a particular State in matters such as this reflect the principles and philosophies under which the citizens in that State wish to be governed.

One can see from this chart a minority of States have enacted primary seatbelt laws. The ones in red are the 21 States that have primary enforcement of seatbelt laws. Simple math tells you that 29 States do not have a primary enforcement of seatbelt laws. In fact, New Hampshire doesn't even have secondary enforcement of seatbelt laws. I surmise that this issue has been considered by all of the States' legislatures in the past.

In our general assembly in Virginia—the world's oldest legislative body in the Western World, started in 1619—they have debated the benefits of a primary seatbelt statute numerous times and have consistently rejected such a law in our Commonwealth of Virginia. In fact, during the debate in the Virginia House of Delegates, it was strongly argued that primary seatbelt laws can contribute to racial profiling.

In early 2003, Delegate Kenneth Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating:

> I know what happens when you are stopped by police as a black man in this country, and in Virginia in particular.

He then explained how his oldest son had been pulled over by police numerous times for no apparent reason.

Incidents like this might not happen in every State and may be specific to certain jurisdictions in Virginia, but it is the fundamental reason for us to leave such decisions to the people in the States. The repercussions of such Federal mandates or pressure can have different effects in each State.

Given that the majority of the States have declined primary safety belt laws, it seems inappropriate for the Federal Government to devise a grant program that essentially compels the States to enact them or lose Federal gas tax dollars that they paid into the Federal highway trust fund.

The underlying bill's Occupant Protection Incentive Grant Program, I suppose, is well-meaning officiousness, but instead of providing grants based on obtaining a goal to increase use rates, the safety title requires the States to enact a primary seatbelt law to receive these Federal funds which, of course, have come from the people in the States who paid Federal gas taxes.

The proponents of this provision will no doubt argue that the program is not discriminatory, not an effort to coerce States without primary seatbelt laws to enact such laws. However, the 90-percent use rate required in this bill would make it extremely difficult for a vast majority of the States to qualify for grant funding. According to the National Center of Statistics and Analysis, only seven States had a safety belt use rate of 90 percent or higher in 2004.

I understand there are studies that indicate that primary seatbelt laws are most likely to yield increased use rates. However, if States without primary seatbelt laws are able to attain a comparable or higher use rate to those with such laws, it is fundamentally unfair for the Federal Government to withhold grant funding that has been provided by all road-using taxpayers.

My amendment would revise the Occupant Protection Incentive Grant Program to base grant awards on an 85-percent safety belt use rate. Instead of compelling States to enact primary seatbelt laws, grants would be awarded based solely on seatbelt use attainment. There are a variety of ways that States may encourage people to use seatbelts.

It is difficult for me to understand the logic of an incentive program that would provide Virginia, with its high safety belt use rate, far less funding than a State with a far lower seatbelt use rate and a primary seatbelt law. Yet that is entirely possible under this bill if a State with a lower use rate has enacted a primary seatbelt law. They could have a lower rate than the State that doesn't have such a law and receive funding, while the State with higher usage does not.

If the goal is to attain higher safety belt use rates, incentive grants should be awarded based on a specific goal. In our amendment, it is an 85-percent safety belt use rate. This proposal is similar to the one already included in the House version of this legislation.

My proposal is a much more equitable way to provide incentives and reward States for increasing safety belt use rates. It makes the proposed program fair by making requirements the same for all States but does not compel States to enact primary seatbelt laws. Again, the goal of our amendment is simple and clear: attain higher seatbelt use rates based on achievement, not on an artificial mandate from the Federal Government.

States are looking for the greatest flexibility on how to use Federal transportation dollars that we send back to them. Some may decide that increasing capacity can best serve their citizens by helping alleviate traffic congestion and improving the safety of a particular roadway. My amendment would allow these funds to be used for everything from intersection improvements, pavement and shoulder widening, installation of rumble strips or warning devices, improving skid resistance, improvements to pedestrian or bicyclist safety, railway, highway crossing safety, traffic calming, the elimination of roadside obstacles, improving highway signage, and pavement marking. They can use it for installing priority control systems for emergency vehicles that signal intersections. They could use it for installing traffic control or warning devices at locations with high accident potential, or increasing road or lane capacity.

It has been noted multiple times throughout this debate that our highways are not being maintained and actually require greater funding than the underlying bill provides or authorizes. This amendment would provide the States some additional flexibility to address road and lane capacity needs if they so choose.

We all agree that wearing a seatbelt increases safety for drivers, and the policy should be to try to promote increased safety belt use rates.

My amendment does not change that purpose. However, I do not believe it is the role of the Federal Government to force States to enact such laws that are traditionally considered in the State legislatures. The States may have many ways, such as advertising, to encourage greater seatbelt usage.

My amendment rewards States equally for reaching an 85-percent safety belt use rate, but does not seek to force them into only one solution prescribed by the officious nannies in Washington, which would be a primary enforcement seatbelt law.

I urge my colleagues to consider the laws in their home State. Twenty-one States have such a law, 29 do not. Determine whether you believe this Federal Government incentive plan should reward States that have high usage or whether it should be used to promote a certain meddling nanny philosophy of this body that tells State legislatures and the people in the States what to do.

My amendment would ensure that the occupant protection incentive grant funding is awarded fairly and is done so based on attainment of goals. I strongly urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, very briefly, the Democratic leader and I have a unanimous consent request.

Mr. President, I ask unanimous consent that the list of amendments I send to the desk be the only remaining first-degree amendments in order, other than a managers' amendment to be cleared by both managers and both leaders; provided further, that they be subject to second-degree amendments that have been filed in accordance with rule XXII; I further ask consent that any amendment from the list must be offered by 4 p.m. on Monday, May 16; provided further, that when the Senate resumes consideration of the bill on Tuesday, May 17, all time be expired under rule XXII and the Senate proceed to votes in relation to the pending amendments in the order offered, and that following disposition of the above listed amendments, the Senate proceed to a vote on the Inhofe substitute amendment, as amended, that the cloture vote on the underlying bill be vitiated, and the Senate then proceed to a vote on passage of the bill, with no intervening action or debate.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. To the leader through the Chair, it is my understanding we will have a vote Monday night, and it will be one of the amendments on the list; is that right?

Mr. FRIST. Mr. President, that is correct. We will have one amendment, possibly two, Monday night, and the remainder of these votes will be stacked, on Tuesday, in the order that was just spelled out.

Mr. REID. Further, Mr. President, we have been on this bill 2 weeks, but that is somewhat misleading because we have had so many other issues that have interrupted the discussion of this bill. The work on this bill is good. I compliment the managers and the others. Not only do we have these managers on the bill, but there are many committees that have jurisdiction on this bill. It is a very complicated bill jurisdictionwise. It is a big bill moneywise. The managers have to be complimented for doing this.

I believe this is what we can accomplish in the Senate. We have only spent

a few days on this bill. I repeat, this is a remarkable piece of work we have done. I hope we can continue doing the work for the people of America as needs to be done. I have no objection.

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

Mr. FRIST. Mr. President, I second what the Democratic leader said in terms of both sides working together on a bill that has taken a tremendous amount of work. We spent several days on the bill and had plenty of opportunity over the last 2 weeks for everybody to come forward.

To clarify for the benefit of our colleagues, with this agreement in place, we can announce there will be no further votes this evening. Tomorrow we will resume the bill, and Senators will be able to offer amendments from the list. No rollcall votes will occur on those amendments during Friday's session.

As we just stated, on Monday, Senators will have an opportunity until 4 p.m. to offer amendments. As we discussed, there will be at least one, but possibly two votes. We will be voting Monday evening on at least one of the highway amendments. Therefore, Senators can expect the next vote to be at 5:30 p.m. Monday. We will then complete our work on the bill Tuesday morning. The managers will work over the course of Friday and Monday to further limit the number of amendments that will require votes.

I thank our colleagues, and I thank the chairman and ranking member for their tremendous work, their patience in bringing this bill forward.

Mr. President, I yield the floor.

The list of amendments is as follows:

Germane amendments intended to be offered:

Carper: #638, #723.
Dodd: #732 Teen Drivers.
Durbin: #734 Fuel savings reporting; #669 Bicycling.
Feingold: #695 Buy American; #676 Volunteer mileage.
Feinstein: #591 Alameda Corridor East; #633 Toll Roads.
Lautenberg: #619 Drunk driving; #639 Big Trucks.
Schumer: #674 Transit Benefits.
Wyden: #690 Hours of use exemption.
Landrieu: #620 Corridor.
Kerry: #680 Ferry boats.
Post Cloture Amendments
Sessions #646.
McCain #719.
McCain #720.
Craig #616.
Domenici #659.
Bond #631.
Bond #658.
Warner #686
Ensign #636
Chambliss #603.
Alexander #733.
Snowe #706.
Lott #583.
Lott #667.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 611

Mr. DEWINE. Mr. President, I rise this evening to oppose the amendment my colleague from Virginia offered. With all due respect to my good friend from Virginia, I do so because I believe the bill, as currently written, is a good one, as I said earlier today. I believe the language in the bill on primary seatbelt usage that has been written by Senator LOTT will, in fact, save lives.

In this country every year, we lose over 40,000 Americans in highway deaths, 40,000 Americans who are killed in auto fatalities. This bill is aimed at, in many different respects, trying to reduce the number of Americans who die by building better roads, by dealing with dangerous intersections, and some of the safety provisions we have already talked about in this bill.

If you talk to anyone who is a highway safety expert or if you talk to the real experts who are the men and women who patrol our highways every day—in Ohio it is the Ohio State Highway Patrol or it might be the local sheriff's department, State troopers, whatever they are called in your local jurisdiction—I believe the experts who have looked at and studied this issue will tell you that the use of primary seatbelt laws clearly saves lives.

Why is that? It is pretty simple and pretty basic. The reason is this: Of all the things we can do to save lives, the easiest and simplest is to increase the number of people in this country who buckle up, who put on a seatbelt. Every car that is manufactured in this country today has a seatbelt. It is not adding any new equipment. It is getting people to put on their seatbelts. It is a question of getting people to use equipment that is already in the car.

If people use seatbelts, they are safer and the auto fatalities go down. The highway safety experts, the people who have studied this issue, will tell you when the usage of seatbelts goes up, the auto fatalities go down. It is that simple.

The other thing we know is States that have passed primary seatbelt laws have seen the use of seatbelts dramatically go up. In Ohio, for example, we do not have that law, unfortunately, and we are hovering at about 75-percent use. We are probably never going to get beyond 75-percent. We are not going to get to 80 or 85 or 90 percent unless we have a primary seatbelt law.

If a State gets a primary seatbelt law, that usage will go up. It will go up 5, 10, 15 percent, and when you see that happen, the number of lives will be saved.

In Ohio—I am using my home State as an example, but you can extrapolate these figures from Ohio to any other State in the Union—in Ohio, we estimate if we had a primary seatbelt law and our usage went from 75 percent up to, say, 90 percent, we would save 100 lives per year. That is a lot of people. We would save lives every year. Whatever the figure, we are going to save lives.

So this is a very simple provision Senator LOTT and the managers have included in this bill. What the amendment of my good friend from Virginia would do is basically take that out.

Now, for my colleagues who worry about the Federal Government being oppressive and using the stick, this is not a stick approach. This is a carrot approach. This is extra incentive to the State to do it. It will save lives. There are very few times when one can come to this floor and know that their vote will save lives.

When we get to the point where we vote on this, a vote to retain this language in this bill will, in fact, save lives because States will enact it; the usage of seatbelts will go up, and when the usage of seatbelts goes up, lives will be saved. It is pretty simple.

So I urge my colleagues to defeat the Allen amendment and to keep this language in the bill.

One last comment. My colleague has talked in his speech about the highway patrol and the police have other things to do. Yes, they have other things to do. The point of a primary seatbelt law is akin to most other laws. It is a deterrent. That is why we have speed laws. That is why we have every other kind of laws. It is a deterrent, and the deterrent changes behavior. Because that law is on the books, because people know they have to have it, because they know they can be pulled over for not having it, they will put it on and usage will simply go up. It works. It has worked in State after State, and lives will be saved.

So I urge my colleagues to keep this in and to defeat the amendment of my colleague from Virginia.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today to strongly support the safety belt provisions in the Inhofe substitute, and to urge my colleagues to reject the amendment offered by my colleague, Senator ALLEN.

The Commerce Committee's provisions to provide incentives to States which increase the use of seatbelts is essential to improving the safety of the driving public.

Increasing seatbelt usage is the hallmark of the administration's proposals to the Congress, and it is the cornerstone of the Commerce Committee's title to this bill.

The administration does not support the amendment before us and Secretary Mineta has written that, ''President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries.''

The facts are undeniable as the Secretary of Transportation states: ''Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.''

The administration's bill sets as our national goal a seatbelt use rate of 90 percent. That should be our minimum standard, but under the Allen amendment it would be weakened.

In a letter I received yesterday from Dr. Jeff Runge, administrator of the

National Highway Traffic Safety Administration, he writes in reference to the seatbelt grants program that ''no other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.''

I commend Chairman STEVENS, Senator LOTT, and Ranking Member INOUYE for their strong leadership in continuing a critically needed safety belt incentive grant program. It was my privilege to be directly involved in the drafting of TEA–21 in 1998. For the first time, TEA–21 included a significant, new incentive based program to increase the seatbelt use rate in this Nation.

At that time, the national average for seatbelt usage was approximately 67 percent. Some states, particularly those with primary seatbelt laws, were achieving belt use rates far above the national average, and they saw the immediate benefits of fewer highway deaths and injuries.

Before the TEA–21 program, other States, without primary seatbelt laws, had belt use rates much lower than the national average.

The Safety Belt Incentive Grant Program in TEA-21 provided approximately $600 million to States which improved their belt use rates. We have seen improvements in the number of people wearing seatbelts as a result of this program. I commend the Commerce Committee for their leadership in advancing a program that will take us even further in helping States to get people to buckle up.

Today, the average seatbelt use rate has improved significantly. There remains, however, great disparities between the States in their seatbelt usage. It is clear that States with primary seatbelt laws achieve far higher seatbelt use rates than States without primary seatbelt laws. For this reason, the Commerce Committee provides significant funding to States that enact primary seatbelt laws.

The Commerce Committee program, like the administration's proposal and the amendment I offered last year, sets as our national policy a goal that States reach a 90-percent seatbelt use rate. This important provision recognizes that the most effective tool to improve seatbelt usage is by enacting a primary seatbelt law.

Wearing seatbelts is a critical public health and safety issue. As many have said, wearing a seatbelt is the most single most important act we can take to prevent deaths and injuries on our highways.

For the first time in a decade, highway deaths are on the rise. In 2004, nearly 43,000 children and adults died as a result of automobile crashes. Over half of these deaths involved people who were not wearing their seatbelt.

I find that astonishing. There is no other fact that is more compelling that should convince us to take action.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible, and the provisions approved by the Commerce Committee are critical to reducing traffic deaths.

I urge my colleagues to support the provisions in the bill to provide financial incentives to States to increase seatbelt usage to 90 percent or to enact a primary seatbelt law.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise in opposition to the Allen amendment, and I will repeat what Senator WARNER had to say:

> I rise today to strongly support the safety belt provisions in the Inhofe substitute and to urge my colleagues to reject the amendment offered by my colleague Senator ALLEN.

I thought that would be a pretty interesting statement to put into the RECORD at this point.

I remember, though, Senator WARNER did a lot of work on this subject a couple of years ago. He has been involved in Transportation bills, highway bills, but I remember he had an amendment that would actually, in effect, provide sanctions if one did not have seatbelts. I voted against that because I do not think that is the way to get States such as mine to do something that could be very important in terms of safety.

Before he leaves the floor, I want to also commend Senator DEWINE for his work on these safety issues. In the bill last year, he had a lot of provisions that he worked with Senator MCCAIN and others on to get them to include in the Commerce portion of the highway bill. This is an area where he has worked, he feels passionately about it and he came back this year and said we want to work together.

I think if my colleagues will look at what we put in the safety provisions from the Commerce Committee, from the Surface Transportation and Merchant Marine Subcommittee that I chair, now a part of the substitute, they will be pleased with the safety provisions.

This is a key part of the highways and transportation in our country. If we just look at the pavement, if we just look at the jobs, if we just look at economic development, we will be missing a big part of the equation, and that is safety and lives that can be saved or lost depending on what we do.

Senator STEVENS, Senator INOUYE, and I met with people on all sides of this equation: highway people, safety advocates, State representatives, labor, the entire mix, and we developed these provisions very carefully. So I want to thank Senator DEWINE for his effort.

Because I have done that, and because I have worked on this issue, I feel very strongly in opposition to the amendment offered by Senator ALLEN. Usually, Senator ALLEN and I would be together on something like this, but my opposition this time is very simple and that is we need people to use seatbelts; they save lives.

I come from a State that is one of the lowest users of seatbelts in the Nation—63 percent. I am one of those who has been slow to come to the usage of seatbelts, but I guarantee you my kids know how important they are. They will not let me crank the car up until everybody is buckled in, including especially my grandchildren.

Then, as I have gotten into it more and more, the statistics are clear that these seatbelts will make a difference. In 2003, about 17,000 people killed in motor vehicle crashes were not buckled up, and nearly 500 of those deaths were children. Would it absolutely have saved them if they had been buckled up? Maybe not. But even if it had been just a few hundred, and it probably was more like thousands, that makes a huge difference. Many of those 17,000 deaths were preventable.

A passenger wearing a seatbelt is 45 percent less likely to be killed when involved in an accident. For light trucks such as SUVs, the figure is higher. The risk of fatal injury is reduced by 60 percent. Traffic safety experts nationwide agree that the most effective short-term way of reducing traffic fatalities is to increase the seatbelt use.

Getting people to change their driving habits is a major challenge that requires more than just airing public service announcements or distributing safety materials. Over the years, States have tried many different ways to increase seatbelt usage. Experience has shown the most effective means to increase seatbelt use is to enact the primary seatbelt law.

In fact, each percentage point increase in seatbelt use saves about 270 additional lives. If every State in the country enacted the primary seatbelt law, more than 1,200 lives would be saved every single year.

Today, in the 22 jurisdictions—21 States and the District of Columbia—that have primary enforcement laws, the average seatbelt use rate is 11 points higher than in States without this primary seatbelt law. I want to emphasize my State does not have it. I have talked to State officials. I want to encourage the State to do that, and this provision will do that. I will explain that a little bit more in a moment.

To give an example of how powerful an effect this will have, consider the recent experience in the State of Illinois which passed a primary seatbelt law in just 2003. In just one year after Illinois passed a primary seatbelt enforcement law, the seatbelt use rate jumped from 74 percent to 80 percent. Increases in seatbelt use produced real results. In Washington State, traffic fatalities declined by 9 percent in the first year after passing a primary seatbelt law. Yet there are still 29 States that have not passed it. This grant program will provide incentives for those States to take the steps needed to save lives.

It also rewards States that are able to achieve a 90-percent seatbelt use rate without a primary seatbelt enforcement law. States that have already done it but show movement and get to 90 percent, there is a reward, an incentive, for them to do that. What we are really worried about is those 29 States that have not done it that are down in the 60—or even less—percent use of seatbelts. This program rewards the States that are able to achieve that 90 percent.

Senator ALLEN's amendment says that unless a State gets 85 percent, they do not get any of the incentives. In my State, it is 63 percent, and we are not going to get to 85 percent for many years to come. We will not ever reach the percentage or get the incentives that would encourage us to do it.

The seatbelt performance grants offer States the flexibility to use much of the funds on highway safety infrastructure projects. That is the most important safety provision we could possibly pass: Better roads, wider roads, more lanes, more bridges, safer bridges. That is the ultimate safety provision. Seatbelts and other things that can be done, the construction of vehicles, make a difference too.

The flexibility funding allows States to identify and address the greatest highway safety hazard. They can improve dangerous intersections, enhance railroad signage or redesign dangerous stretches of road. Combining a primary seatbelt enforcement law with addressing highway safety hazards is a win-win situation.

More States would reap the benefit under the Senate Commerce provision than under the Allen amendment. Today, only 14 States have an 85-percent seatbelt use rate required to qualify for the Allen amendment.

The Allen amendment is also a budget buster. If all States were to enact primary seatbelt laws, the cost of the Commerce Committee bill would be $597 million. If all States were to meet 85-percent belt use under the Allen amendment, it would cost $778 million. The additional $181 million needed to fund the amendment would have to come out of the highway trust fund.

We thought about this carefully. We listened to administration officials. It is very clear it is the view of the administration, the position of the administration, that we need to encourage greater use of seatbelts. We need States to pass this primary seatbelt law. It will save lives, and I believe the Allen amendment will undermine a very strong part of this legislation.

I urge my colleagues, when we do take this back up, to look at this very carefully. We will vote on it next week and you will have a chance to think it through. It is not about, Do I get a little more this way than that way as a State; we are talking about lives here. We are talking about lives, and a life in Georgia is as important as a life in Mississippi or Virginia or any State in the Nation.

I feel strongly about this. By the way, one of the reasons why I feel strongly, I believe, is I am among the converted. I didn't just get here years ago; I moved gradually toward this. Finally, the statistics, the evidence, and the deaths are too much weight for me to reject, or not accept. This is a way to get a significant increase in my State, and States all across the country, in seatbelt usage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I, too, rise and join my colleague from Mississippi in his very eloquent remarks, and my colleague from Ohio.

I know the Senator from Illinois is waiting to speak in a few moments.

I rise in opposition to the Allen amendment. I understand the intentions, but I think the statistics and the numbers and the reality make it clear that the American people are better off under the provisions as they currently exist in the bill. More States benefit from the Senate Commerce primary belt law provision. There are 19 States currently that have primary seatbelt laws on their books and they will qualify for funding immediately. Only 14 States have an 85-percent seatbelt use rate, according to the 2004 numbers. That is what you need to qualify under the terms of this amendment. So more people would benefit and be rewarded for having the primary seatbelt law.

I think the provisions of the Commerce Committee's bill guarantee funding if the State does one thing, and that is either have or pass a primary belt law. Under the amendment we are talking about right now, a State has no certainty that any action it takes will increase belt use that will result in 85-percent or higher rate use.

This amendment would, if enacted, abandon a very important goal, and that is, for several years the Department of Transportation has set a goal of 90-percent seatbelt usage. The amendment in question would set a goal basically at 85 percent. I have a concern. Knowing human nature and the way things work sometimes, I think folks might give up at 85 percent and never try to reach that 90 percent. So I think the DOT policy is a good one. I think it is designed to save lives. It is a commonsense approach. As Senator LOTT said a few moments ago, States that have a primary seatbelt law on average show the increase in seatbelt usage by 11 percentage points. He tried to drive that home a few moments ago. I think that is a very powerful statistic.

Primary seatbelt laws are also the fastest and the cheapest way to save lives. The NHTSA administrator, Jeff Runge, M.D., said of the provisions in the current bill that they would save more lives, do it faster and cheaper than any other highway safety proposal Congress is likely to consider this decade.

So the experts agree, the numbers agree, and last, let me say, the safety groups agree. These are the people out there every single day fighting for better laws and more safe vehicles, safer roads, et cetera. They agree. The proposal in the current bill, not in the amendment but in the bill, is supported by the National Safe Kids Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Insurance Association, Advocates for Highway and Auto Safety, Mazda, the Automotive Occupants Restraint Council, the Traffic Safety, the National Safety Council, the American Insurance Association. It incentivizes States to pass these primary seatbelt laws. The experts agree the way to save lives on America's highways is to try to pass these seatbelt laws.

I, like Senator LOTT, do not have a primary seatbelt law in my State. Typically I think States should have the rights to make these decisions, and certainly every State does. But what we do is give a bonus, an extra incentive for States to consider, State legislators, Governors, et cetera, to consider passing these type of laws because it will benefit their citizens and benefits the Nation.

I urge my colleagues to vote against this amendment when it comes up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, like my distinguished colleagues from Arkansas and from Mississippi, I rise in opposition to the amendment offered by my distinguished colleague from Virginia. I strongly urge my colleagues to preserve the seatbelt program as it is written in the Transportation reauthorization bill.

This provision in the underlying bill gives States that pass primarily seatbelt laws a one-time incentive grant from that State's annual traffic safety grant apportionment. The purpose of this incentive is to encourage States to take specific action, passage of a primary seatbelt law that will save more lives.

As it so happens, my State of Illinois passed a primary seatbelt law in response to this incentive. I know we did it in response to these incentives because I was the chief sponsor of passage of the primary seatbelt law.

The same thing happened in Delaware. The same thing happened in Tennessee. You know what. It works, and it works faster and cheaper than any other method, in terms of ensuring that people wear safety belts and save lives.

It is amazing we have to keep saying this, but seatbelts save lives and primary seatbelt laws save more lives. The National Highway Traffic Safety Administration predicts if every State enacted primary seatbelt laws, more than 1,000 lives could be saved each year and 17,000 injuries could be prevented. Seatbelt use is 11 percentage points higher in States with primary enforcement laws than in those States where laws provide for secondary enforcement. And States changing from

secondary to primary enforcement have seen 10 to 15 percentage point increases in usage.

Beyond the facts and statistics, this is an issue that makes sense. We should not have to just hope people wear seatbelts, just as we should not have to hope they obey speed limits or hope they stop at red lights. We should do what we can to make sure people will wear seatbelts that will keep them alive. We teach our children to wear seatbelts when they get into a car and we all hope they listen to mom and dad and do it when we are not there, but wouldn't we feel better if we knew our laws in our communities were helping to make that happen? Doesn't it makes sense for the Federal Government to maintain a consistent message on seatbelt use, not through a mandate but through a simple incentive?

The National Safe Kids Campaign thinks so. Mothers Against Drunk Drivers thinks so. They endorse and prefer the Federal incentive as written in the underlying bill.

Finally, a Federal incentive is also a Federal commitment. When the Federal Government makes a commitment and States respond accordingly, then the Federal Government needs to keep its word. One of the points that was raised by Senator ALLEN in sponsoring this amendment was that, in Virginia at least, there seems to be some concern that primary seatbelt enforcement would result potentially in an increase in racial profiling in Virginia.

As somebody whose community on the south side of Chicago is fairly familiar with racial profiling, and who hears anecdotes each day from African-American drivers who believe they may have been profiled, I am certainly sensitive to Senator ALLEN's point. As it turns out, though, part of the way we were able to solve this in Illinois was to couple a primary seatbelt enforcement law with a racial profiling law that would ensure we were keeping track as to how traffic enforcement was taking place and to make certain it was being done in a nondiscriminatory fashion.

This was the bargain that was struck at the local level: the notion that we would have a primary seatbelt law enforced; we would also have a data collection bill that would allow us to track and make sure our traffic laws are being applied in a nondiscriminatory fashion.

That deal that was struck in Illinois was premised on the notion that we would be getting these Federal incentives. It is not appropriate for the Federal Government to now pull the rug out from under States such as Illinois that have done the right thing. It is appropriate, instead, for us to keep our word, maintain our commitments, and make sure we continue to incentivize a law that everybody knows, in fact, saves the lives of our citizens.

I encourage my colleagues to oppose this amendment

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the pending amendments be laid aside.

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

AMENDMENT NO. 674 TO AMENDMENT NO. 605

Mr. SCHUMER. Mr. President, I call up my amendment No. 674, which I believe is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES, proposes an amendment numbered 674.

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

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

The amendment is as follows:

(Purpose: To increase the transit pass and van pooling benefit to $200)

On page 628, line 23, strike ''$155'' and insert ''$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)''.

On page 629, line 5, strike ''2008'' and insert ''2009''.

On page 629, line 7, strike ''2007'' and insert ''2008''.

Mr. SCHUMER. Mr. President, I will be brief. This amendment raises the tax-free mass transit benefit from $155 to $200 per month by the end of the life of the Transportation bill. I, first, thank my colleagues on the Finance Committee, Mr. GRASSLEY and Mr. BAUCUS, for raising the amount to $155. That is already in the bill. What this amendment does is raise the remainder over the course of the bill to $200. What it will do is equalize the benefit offered by employers for transit expenses with the current benefit offered for parking expenses.

I understand that Senators BAUCUS and GRASSLEY are working with the Budget Committee to get this amendment approved. So I hope we will not have to vote on it or debate it much longer than this. I greatly appreciate their efforts.

Basically, we give people a $200 deduction when they drive to work. It is obviously a business expense if they have to pay for parking, but mass transit has always been discriminated against. We do not give people that deduction for mass transit. This makes it equal. It does not favor one, does not favor the other. It does not take from highways to give to mass transit. It is a win-win-win.

Now, mass transit ridership is at an all-time high nationwide. It continues to rise in New York and across the country. For millions of transit riders, this increase will save them hundreds of dollars every year. Raising the transit benefit will simultaneously reduce traffic, congestion, and smog while saving commuters in New York and across the country hundreds of dollars every year.

The existing disparity between the two benefit levels has also created a financial incentive for employees to drive to and from work alone rather than utilize transit or a vanpool. The amendment eliminates this disparity. The transit benefit provides a low-cost way to get more cars off the road. In the New York metropolitan area alone, commuters save over $150 million, thanks to the transit benefit. Employers have saved significantly as well, over $35 million. And that amount can be multiplied for benefits throughout the country.

By taking cars off the road, increasing the transit benefit is sound environmentally as well. It reduces emissions, which leads to cleaner air, and cuts gasoline use across the board.

I hope we can support this good tax cut unanimously.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 646 TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside and call up amendment No. 646.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes amendment numbered 646.

The amendment is as follows:

(Purpose: To keep the bill within the budget levels)

At the appropriate place, add the following

SEC. 1. REDUCTIONS

The total spending in this bill shall be reduced by $11,100,000,000, by reducing the totals by the following amounts—

(a) STP Enhancements (Sec. 1104(4): reduce by $2,800,000,000;

(b) Maglev (Sec. 1819): reduce by $2,000,000,000;

(c) Ferry Boats (Sec. 1101(114)) and Sec. 1204): reduce by $235,000,000;

(d) Truck Parking (Sec. 1814(a)): reduce by $47,010,000;

(e) Puerto Rican Highways (Sec. 1101(15)): reduce by $500,000,000;

(f) Congestion Mitigation and Air Quality (Sec. 1101(5)): reduce by $4,479,000,000;

(g) Administrative Expenses (Sec. 1103(a)(1)): reduce by $348,000,000;

(h) Historic Covered Bridge (Sec. 1812): reduce by $56,000,000;

(i) Transportation Infrastructure Finance and Innovation Act (Sec. 1303): reduce by $500,000,000;

(j) Transportation and Community and System Preservation Program (Sec. 1813): reduce by $135,000,000;

AMENDMENT NO. 646, AS MODIFIED, TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent the amendment be modified with the changes that are at the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing none, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To reduce funding for certain programs)

On page 410, between lines 7 and 8, insert the following:

SEC. _____. REDUCTION OF FUNDING FOR CERTAIN PROGRAMS.

Notwithstanding any other provision of this title or any amendment made by this

title, amounts made available under this Act, and titles 23 and 49, United States Code, shall be reduced by a total of $10,700,000,000, as follows:

(1) The amount made available under section 1101(4) for surface transportation enhancement activities under section 133 of title 23, United States Code, shall be reduced by a total of $1,100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(2) The amount made available under section 1101(5) for the congestion mitigation and air quality improvement program under section 149 of that title shall be reduced by a total of $4,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(3) The amount made available under section 104(a)(1) of that title (as amended by section 1103(a)(1)) for administrative expenses of the Federal Highway Administration shall be reduced by a total of $400,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(4) The amount made available under section 188(a)(1) of that title (as amended by section 1303(f)) for Transportation Infrastructure Finance and Innovation Act amendments shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(5) The amount made available under section 175(d)(1) of that title (as amended by section 1813(a)) for the transportation and community and system preservation program shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(6) The amount made available under section 5338(b)(1) of title 49, United States Code (as amended by section 6036) for transit formula grants and research shall be reduced by a total of $5,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Mr. President, we have a very real difficulty with this bill. I think there is a strong desire by most Members of this body to increase the amount of money that is set aside for our road infrastructure. The bill, in fact, does increase that. We had a number at which the President said he wanted us to stay. We increased that number nearly $11 billion. We started at $284 billion. Now the number is $295 billion.

The best numbers that I can get from the Budget Committee have convinced me that the sad truth is we have $11 billion in this bill over the budget spending cap that we agreed to. It is the first real bill that has come up since we passed the budget agreement. So we are already in violation of it. They say there are offsets, but some of those offsets are not realistic. I think most everybody knows it.

They are projecting things are going to happen in conference, and that it is not going to be a pleasant conference because the President has made clear he will veto a bill that is not within his budget. We are facing a real problem.

So I have thought what we ought to do in this Senate, in this Congress, is what real people do when they have to face serious financial decisions. They have to accept the fact they cannot do everything. I know Senator INHOFE has worked so incredibly hard on this bill. My admiration for him is unlimited. I know how strongly he wants to see the road portion of this bill be as strong as it possibly can. And I agree. People travel on highways every day. An improved infrastructure can be a positive difference for our communities and Nation. That is why I try to support everything I can and to be as generous as possible in the road construction account.

I will not go into the details tonight, but my amendment will look at less critical parts of this bill, including the mass transit title, and other portions of the bill, and it will ask how many increases we can sustain in those accounts. By reducing the increases a little bit, by an amount that would allow an increase to occur—not cutting those accounts but not having an increase as big as has been proposed—we can produce a bill that increases our funding for our basic infrastructure, is faithful to the budget numbers this Congress adopted, and will be signed into law—not vetoed by the President.

If we get to conference without something like this, what we are going to see is that the amount of money set aside for our basic highway infrastructure is going to be cut in conference because the offsets are not going to all be accepted.

So let me say again, we are heading to conference with an increase over the budget that is supposed to be offset. Some of those offsets are not going to be approved. And I suspect our basic road infrastructure amount that we now have in the bill will not be sustained and will be reduced.

My amendment will allow us to sustain those increases that have been proposed and that we desire. It will allow us to stay within the budget. It will fund this by reducing the increases in other noncritical programs, but still allowing them to increase—not cutting them.

I think that is what responsible people ought to do. That is what the amendment I have offered does. We will talk about it in more detail. I thank Senator INHOFE for his leadership on this issue and on so many others. I know he has worked hard. They probably have agreements on how this thing has to go, but I believe the amendment I have offered will be helpful to achieving the goal most of us share.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, before the Senator leaves, let me just clarify something. It is a very rare occasion that the good Senator from Alabama and I disagree on anything. It just doesn't happen. In this particular case, this is the exception. Let me kind of outline how I think the system works. I don't chair the Finance Committee. I don't chair the Budget Committee. I do not serve on either one of them. I do chair the Environment and Public Works Committee.

When we put together the bill—and this particular bill has been 3 years in the making—it is very similar to what we had last year except it is a lower funding level which should satisfy, to a greater degree, the Senator from Alabama. But when we come up with a bill, the procedure is to go to the Finance Committee. We did that, and we have several Finance provisions in there. Senators GRASSLEY and BAUCUS spent a long time. While people keep saying the offsets are not realistic, they could be right, but the ones who can properly evaluate the offsets are the ones who proposed the offsets, and that is the job of the Finance Committee.

I want to say this because the Senator from Alabama and I are ranked as two of the most conservative Members of the Senate. I have said often there are two areas where conservatives spend money; one is national defense and the other is infrastructure. That is what we are supposed to be doing here. I wish to clarify that I will be opposing the amendment because I believe the Finance Committee has done their job. I have heard both the ranking member and the chairman talk about this, and they have convinced me that they have done their work. We will have to wait and see.

Mr. SESSIONS. Mr. President, I thank the Senator from Oklahoma. He is a great leader in the Senate. I admire his work on this committee and his leadership as a senior member of the Armed Services Committee on which I serve with him. I don't dispute that the Joint Tax Committee has said the offsets the Finance Committee has proposed, if adopted, might meet the needs of this increase.

I understand some of those proposed offsets probably will not have support in the House. I would like to see the Senator's goal of spending more money on our road infrastructure and transportation system that serves the commercial transportation needs of all the products that we eat, buy, and utilize daily—that are shipped from trucks on highways all over America—I would like to see that guaranteed. I am afraid if we go the way we are now, we will not be able to hold the full increase that has been proposed when we get to conference. But if we would face up to the question and set some priorities and choose between some of the things that are in this bill that are less fundamental and some of the things that are desirable—things we would like to do but we really don't have to do as much as others—and reduce some of the increases proposed for those programs and move that into the fundamental infrastructure for highways, I would feel better about it.

I think the Senator is not really in disagreement too much with that. But when you move a piece of legislation as he has, it requires a lot of cooperation and partnership.

Mr. INHOFE. Yes, I agree. We hear all the time in this body and all representative bodies about what is desirable. It reminds me of the guy who went to the department store, and this beautiful, young, voluptuous saleslady came up to him and she said: Sir, what is your desire? And he said: Well, my ''desire'' is to pick you up after work, go out to dinner and drink some champagne and make mad, passionate love to you, but I ''need'' a pair of socks.

We have to distinguish between desire and need, and I think it is a difficult thing to do.

Mr. SESSIONS. That is all I am suggesting. Let's go on and make that upfront, and maybe we will be able to hold this full increase for our highway funding.

I thank the Chair and yield the floor.

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

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

Mr. LOTT. Mr. President, I ask unanimous consent to call up amendments Nos. 583, 631, and 733 en bloc. I ask unanimous consent that amendments Nos. 631 and 733 be modified with the changes at the desk and agreed to en bloc. The amendments have been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Let me withhold on the agreement until we get final clearance.

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. LOTT. 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. LOTT. Mr. President, for the record, I withdraw my unanimous consent request. There was a misunderstanding that was involved. We are working on that, and we hope we can get the package agreed to later.

The PRESIDING OFFICER. The request is withdrawn.

Mr. LOTT. 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. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, before I yield to the Senator from Alaska, I first wish to say how helpful she has been. I know the needs they have in Alaska are unique. She has been very helpful and a great member of our committee. I thank her publicly very much for that.

I think we are making progress now. We have gotten the amendments under control so we can stay on the schedule that has been outlined by the unanimous consent agreement that has been accepted on both sides.

I express my appreciation for everyone cooperating.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank the chairman for the kind words he said and for the substantial work he has done in the committee to move us forward in a manner I think is fair, good, sound, and it is going to work. I am so pleased we are at this point where we will shortly be moving a transportation bill through this body.

I think I speak for all my constituents when I urge this body to move forward on the highway bill. Every State needs it, but truly I believe none need it more than my State of Alaska, and the chairman has referenced our somewhat unique needs.

For most of us traveling from one place to another, it means asking yourself whether you walk, drive, take a bus, take a train, or an airplane. That is life in the 21st century. But in much of Alaska, Americans are still facing issues that are similar to what we faced in the 19th century. In much of Alaska, whether you drive is not a question without meaning. Instead, the question is, What time of year is it? Is it the time of year I will be using a snowmobile or going by boat?

I suppose there are probably some of my colleagues who may be tired of hearing that Alaska is unique with unique problems that require different solutions, but that does not make it any less true, nor does it make Americans living in Alaska any less deserving than Americans living somewhere else.

Yes, Alaska, in fact, does have the highest rate of return from the highway trust fund. We are the donee State that benefits the most, but it is because we are so far behind the other States in transportation needs. I can tell my colleagues, it is a safe bet we would gladly see our position on the donee State listing change if it meant we had the roads to generate more gas tax revenues for the highway trust fund.

To any Alaskan, it is a remarkable and frustrating experience to hear the donor States complain that a dime or so of their Federal gas tax dollar actually goes to serve a Federal purpose—a highway system that unites and strengthens our Nation—and that tax does not come right back home.

It is also remarkable and again somewhat frustrating to hear that roads in many States are in disrepair and more money is needed to repair them. Yes, they are, and, yes, it is, but at least those States have roads. With roads, they gain the ability to move goods and share services. With that ability, they gain the ability to support private sector businesses. With private sector businesses, they provide jobs, and with jobs, they attract new residents, are able to build more schools, offer opportunities, create more wealth. You get the picture. The wealth is shared with the entire country. We have seen that process work.

The funding received by the Appalachian Commission for Road Building has proven this works, and history has proven over and over that reliable, inexpensive transportation is not the result of prosperity, but it is the cause for prosperity.

The highway bill and the highway trust fund which supports it exist for one reason: because Congress recognized that reliable transportation is critical to our national well-being and to the well-being of our individual citizens. This is no less true in the farthest, most remote parts of Alaska than it is in the center of Manhattan. That is why this bill contains provisions to allow the Denali Commission to construct roads between remote communities in Alaska.

This provision is based on a bill I had proposed in 2003 which would streamline the process of bringing Alaska's transportation system into the modern age. The same provision, as amended by the Senate action last year, will also help improve roads within Alaska's many Native villages, some of which still have only the roughest of trails from one part of town to another.

Frankly, the authorization in the bill for this purpose is simply not enough because Alaska has so many years of neglect to catch up on. I am sensitive, however, to the fiscal realities, and I am deeply grateful for the support of those who have helped us get this far. We must recognize this is not just an investment in Alaska today, but it is an investment in Alaska's tomorrow.

For the record, I would also prefer to have a separate system and significantly more money dedicated to our Native village transportation needs. They have been badly neglected. In fact, they have been shamefully neglected by the Bureau of Indian Affairs reservation roads system which is supposed to provide funding for Native American needs. Alaska Native villages have been ignored, their road miles have been uncounted, and money has been funneled into other areas that already have sophisticated road systems.

The bill also contains money to continue the reconstruction of the Alaska highway. I want to comment on this in the hope of dispelling some of the perennial confusion about it. Despite the name, the multiyear project to pave and improve the Alaska highway, also known as the Alaska-Canada, or the Alcan highway, is not an Alaska

project. It is not an earmark for Alaska. It is not even in Alaska. It is a national project, one that was triggered by national defense needs and mandated by treaty between the United States and Canada.

As a treaty obligation, it is not to be discarded lightly. It is unfortunate that some apparently have trouble reading beyond the name and that it has fallen to Alaskans to stand up for the word of honor of the United States to fund this project, but that is just the way it has been. Here again, I am grateful for the support of Senator INHOFE, Senator BOND, and others who have recognized that this is not just a parochial project but one of significance to the entire Nation and one for which the Nation has given its word.

As I mentioned, we have unique needs, unique challenges, and I renew an invitation to all of my colleagues: Come up and visit. Come up and see the State, see for yourself the conditions we have.

I had an opportunity just yesterday to demonstrate that when we talk about Alaska's road system, we use that term lightly. It is not a system; it is a road up and there is a road down and a little connecter in between the two, and that is what we have. When we talk about where our roads stretch from, if we were to superimpose Alaska over the rest of the lower 48 States, we would be going from Minnesota down to Florida and across over into California. The area we cover is huge.

So, again, come up and see the conditions that we have. I would be happy to arrange a trip for any Member of the body, no matter where they stand on the issue, and I am not just talking about transportation issues. We will take the Members up and show them ANWR. We will show them the whole State. I am proud of the State, and I am proud of what we have done to preserve and protect our resources while we still build a vital economy. I would be happy to show my colleagues how we are dealing with some of our unique situations and problems.

One such unique situation has been the fact that it is literally impossible to build roads between some communities, even in long-settled areas like in southeastern Alaska where I was born, where a combination of rugged terrain and the separation of the islands have made other solutions necessary. One solution for the area in the southeast was the establishment of the Alaska Marine Highway System, which builds on a core fleet of large ocean-going vessels in service as ferries. It is the only highway possible between communities such as Ketchikan, Petersburg, Wrangell, Sitka, Juneau, our State capital, and many other smaller communities. It is part of the National Highway System.

If the definition of a highway is a facility used by trucks and cars moving from one community to another, this is, indeed, a highway. In fact, it is one that is considerably less expensive than other options such as tunneling, like we have up in Boston, the ''Big Dig,'' or the combination of bridges and tunnels we see around here.

The last highway bill, TEA–21, contained provisions to fund ferries and ferry terminals in addition to funding received through the National Highway System. I am pleased to say that this bill does as well. In fact, ferry system assistance in this bill is even broader and will help even more States operating ferry systems to do a better job for their citizens.

Now, I have been informed that the finance portion of the bill includes provisions based on two bills which I have previously offered. One of these provisions corrects an inequity imposed on air passengers who live in rural areas where, again, they are unconnected by road and they are forced when they are traveling to fly to a larger airport where they can catch a plane to get somewhere, to reach their final destination. All passengers currently pay a segment fee for air travel, but these rural residents I am talking about are basically forced to pay twice, while passengers who live within driving distance of a larger airport only pay once.

The second measure which I just referenced affects seaplane operators who are not using FAA facilities but currently must pay excise taxes and fees intended solely to support such facilities. This is also an inequity, and my measure will ensure that only those receiving benefits are asked to pay for them.

In addition, it is my understanding that the committee has also included a measure intended to ensure that taxes and fees intended for aircraft carrying passengers from point to point is not incorrectly applied to flight-seeing operations. Senator INOUYE has taken the lead on this matter, but it is worth noting that it has significant support among my constituents in Alaska, and I am pleased to see it included.

Finally, let me note that I understand that the Commerce Committee title includes my proposal to establish State grants for motorcycle rider education. As my colleagues may be aware, motorcycle ridership is increasing all the time, and with it the number of motorcycle accidents has also been rising, particularly among the new riders. It is not necessarily the young riders but riders of any age. It is the latter that my proposal addresses. I believe firmly that the best way to prevent injuries is to prevent accidents, and training is the only way to accomplish that goal.

I have worked closely with the Motorcycle Riders Foundation and State motorcycle education administrators to develop this proposal. All too often, we will see new riders, both young and old, simply climb on and hope that they are going to learn by experience. Better training has been shown to drastically reduce the number of accidents suffered by new riders during the critical period in which their learning curve is the steepest and they are most at risk.

From the national perspective, this highway bill is a good bill. It is not perfect, but few things are. I would prefer to see more streamlining and permitting processes for highway projects. I would like to see more flexibility for States. I would like to see a bill with the funding level that we approved last year. The leaders of each one of our key committees have done yeoman's work—and again, I want to commend the chairman—on phenomenally difficult issues. I believe at the end of the day we have before us a good bill, the best bill possible. I pledge my support for it and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Alaska named a list of things she would have preferred to see in the bill. As I thought of each one of them, I agree with each one. Of course, the Presiding Officer is also a member of the committee, and we know there are a lot of diverse needs in States. It is not a perfect bill. There are a lot of things I would rather have in it, but it is a consensus. It was give-and-take, and that is the way the system is supposed to work.

MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent that there now be a period for morning business with Members permitted to speak for up to 10 minutes.

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

HONORING LESLIE SATCHER

Mr. FRIST. Mr. President, in 1988 Leslie Satcher picked up her belongings and left her home in Paris, TX, bound for Nashville. With a meager $100 in her pocket, she abandoned all that she had known in her young life, and headed to the Music City driven by her dream of being a country-music star.

Almost 2 decades later, that dream is a reality.

Today, Leslie Satcher is one of Nashville's most sought after song-writers. She has emerged as a glowing success under one of the world's brightest country-music spotlights.

At her core, Leslie Satcher is a woman of humble ambition. Her work is shaped by unyielding faith and limitless passion for music. Critics describe her writing as ''emotionally persuasive, yet understated and artful.'' Indeed, she has found her success not by abandoning her homey roots but by embracing them.

Her lyrics are laced with plain spoken yet insightful observations about love and life. And despite her tremendous success, she has always remained true to her creative vision, never losing hold of the simple joys of writing and singing music.

Leslie has come a long way since her first venture into recording at the ''hear-your-own-voice'' attraction on Music Row and in front of audiences at the Bluebird Cafe. The Dallas Morning News has described her as ''one of the most in-demand tunesmiths in Music City.'' And her personal, painful and poignant compositions have been covered by a wide-range of artists including Reba McEntire, George Jones, Vince Gill, and Randy Travis.

Most recently she has concentrated her efforts on not only penning some of today's top hits, but singing some of them, too. In fact, she's in Washington, DC this week to give a special performance to honor our Nation's injured troops at Walter Reed Army Hospital.

Mr. President, Leslie Satcher is a self-made music success story. She is also one of my most favorite artists—and that's saying something coming from Nashville!

One of her sayings is that ''you don't decide to be an artist, you are an artist.'' I could not agree with her more. She has much to be proud of—and it's evident in her songs and lyrics that she not only remembers but cherishes her roots. I am proud of all she has accomplished and honored to call her a friend.

HONORING OUR ARMED FORCES

SERGEANT MICHAEL BARKEY

Mr. DEWINE. Mr. President, I rise this evening to pay tribute to a young Ohioan who lost his life while serving our Nation in Iraq. PFC Michael Barkey was killed on July 7, 2004, when enemy fire caused the vehicle he was riding in to overturn. He was 22 years of age.

I had the opportunity to meet Michael's family and to talk to them about their extraordinary son. They shared their memories with me—memories of Michael lighting up the room with his infectious smile and causing others to laugh at his antics. An editorial in the Canton Repository from July 9, 2004 says it best:

> Michael Barkey's family and friends have a long time of mourning ahead of them. But it is a testament to his vibrant personality and strong character that as the news of his death began to sink in, their memories of him made the people who loved him smile and laugh.

Michael's vibrant personality, touched the lives of all who had the privilege of knowing him. As the fourth of six children of Hal and Julie Barkey, Michael learned at a young age that he loved to make people laugh and that he was good at it. When his older sister Jennifer had her first child, eight year-old Michael quipped that since he was an uncle at 8, he would be a grandma before age 30. His mother Julie could only laugh at her young son when he flubbed his words. She liked to call him a ham.

Every member of Michael's family has fond memories of him. Growing up, Michael and his brother John loved to wrestle each other and—though he wouldn't do it for anyone else—sister, Therese, remembers how Michael would dance around for hours to entertain her and her friends. Youngest brother Tony recalls a time when Michael popped out his false tooth in church to shock a small child. Cousin Joe Mitchell remembers when they went to Myrtle Beach together and saw an attractive woman. Michael and another man argued for so long about who would speak to her first that she walked away. All who met Michael were touched by his witty humor.

At Canal Fulton Northwest High School, Michael excelled both academically and athletically. He loved to play basketball and football. High school football coach, Vic Whiting, remembered that after their last game, Michael—then a senior—couldn't bring himself to take off his uniform. High school friends said that ''Mikey,'' as they called him, was always the center of attention and a natural leader.

After high school, Michael enlisted in the National Guard so that he could pay his way through the University of Akron, where he earned an associate's degree in fire technology. His dream was to become a firefighter, but his unit was called to go to Iraq. Michael believed strongly that he was needed to secure freedom for others, that he was needed to help the Iraqi people.

Answering the call of duty was not new in the Barkey family. Michael's grandfather, Edmund, served in Europe during WWII; father, Hal, is a Navy veteran of the Vietnam war; brother, Todd served in Operation Desert Storm; and brother, John, was an Air Force firefighter stationed in Qatar during Operation Enduring Freedom. Michael was proud to follow in what had become a family tradition.

Michael and the rest of the 1484th Transportation Company trained in Indiana before being sent to Kuwait and then on to Iraq. Michael had been in the National Guard for 4 years. Soon Michael developed the reputation of being able to lighten the mood despite the chaos around them. Captain Curtis Brown, commander of the Company said that Michael was ''a remarkable young man who had the gift of making you see the good in a bad situation. He was a master of the gift of laughter.''

One young soldier, in particular, can attest to that. Specialist Jesse Hensel was Michael's bunkmate and best friend. The two were inseparable—whether they were lounging in their room or lifting weights. Jesse and Michael were like brothers and they argued like brothers. The only thing they agreed on was that Jesse was better looking and Michael was the better dancer.

Michael knew that his family worried about him while he was away. He sent home recordings and pictures—all of which Hal and Julie treasure. One picture in particular always brings a smile to the Barkey family's faces. In it, Michael is lying on the desert, pulling up his shirt to reveal grains of sand arranged in the shape of a smiley-face on his stomach.

Jesse accompanied his best friend on his final trip home. He said that Michael was everything he wanted to be—as a person and as a soldier. Jesse noted at a service honoring his friend that during the trip home, ''I sat by Mike the whole way home and I did a lot of talking. It was the first time Mike didn't talk back. I love him with every piece of my broken heart.''

In Michael's hometown of Canal Fulton, OH, thousands of residents came to show their support for the Barkey family. Some waited nearly two hours to pay their respects to Michael. The funeral mass was a celebration of the life of this extraordinary soldier—and Julie Barkey would have it no other way for the son who brought so much light into the world.

Jennifer Barkey, Michael's older sister wrote the following remembrance letter to provide comfort to the family:

> Know that [Michael] was truly an uncommon man. Grieve for the incredible man, husband, and father he would have become. Know that following the example of our father, he stood up for what he believed. His conviction was such that he was willing to die for it.

We know that Michael is in heaven, continuing to spread the laughter he did while on earth. And perhaps the Barkey family is right—Michael is still cracking jokes, exchanging war stories with his grandfather, and is now the patron saint of Cheetos or hamburgers, which were his favorite foods.

Michael will never be forgotten.

IN REMEMBRANCE OF JOHN GREENO

Mrs. BOXER. Mr. President, I speak to honor the memory of the late John Greeno, Bald Mountain heliport manager with the Mi-Wok Ranger District of Stanislaus National Forest. Mr. Greeno was a 21-year veteran of the U.S. Forest Service who dedicated his life to his family, community, and Nation. He was killed in a tragic helicopter crash in Texas on March 10, 2005, while on volunteer assignment to conduct a prescribed burn in Sabine National Forest.

John Greeno was born on June 2, 1952 in Redwood City, CA, and was raised in the town of Independence, CA. He embarked upon his career with the U.S. Forest Service in 1979 as a temporary employee on the Inyo National Forest. His love for firefighting and the U.S. Forest Service led him to the Stanislaus National Forest where he would eventually rise to the position of Helitack superintendent. During his 21 years of service, John earned the respect and admiration of those with whom he worked for consistently going above and beyond the call of duty. He led by example and was considered a mentor by subordinates. John regularly volunteered for assignments like the one that claimed his life in Sabine

National Forest in order to sharpen his skills and bring back valuable knowledge for his home-base.

John Greeno will long be remembered for his courage and dedication. He is survived by his wife of 11 years and his two children Marcus and Montana. His service and bravery inspired others and he will be deeply missed. I extend my deepest sympathies to his family.

TRIBUTE TO THE 110TH A.A.A. GUN BATTALION

Mr. DODD. Mr. President, I rise to pay tribute to the members of the 110th A.A.A. Gun Battalion. This weekend, the 110th will be holding a reunion in Cromwell, CT, to commemorate the 60th anniversary of the Allied victory in the Second World War.

The 110th played a critical role in the campaign in Europe. They were trained in England in preparation for the Allied invasion in 1944. On June 7 a day after D-Day they reached Omaha Beach in France with orders to ''protect all ground forces from enemy aircraft.'' Members of the 110th also participated in the liberation of Paris, the crossing of the Rhine, and the Battle of the Bulge.

The bravery and accomplishments of the 110th earned the unit considerable praise. Brigadier General E.W. Timberlake commended the men of the 110th for their ''outstanding drive, tenacity of purpose, and aggressiveness,'' while Colonel Thomas Munford lauded the battalion for its ''outstanding performance of every assigned mission, both in training and in battle.''

A few of the achievements of the 110th deserve particular recognition. They successfully shot down what is believed to be the first German plane downed in France during the liberation of Europe. Members of their reconnaissance team were among the first Americans to enter Paris. In total, the 110th destroyed 65 enemy planes, 11 tanks, and 80 ground vehicles.

It gives me a good deal of pride to note that many of the members of the 110th hailed from Massachusetts and Connecticut. As the birthplace of our Nation, New England boasts a long and honored tradition of deep patriotism and dedicated service to our country. New Englanders have served in every single one of our Nation's conflicts, from the Revolutionary War to Operation Iraqi Freedom.

During the Second World War, the fate of not only our own Nation but the world was at stake. And New Englanders joined our entire Nation in stepping forward to defend freedom against the forces of tyranny and oppression.

Sadly, with each passing year, fewer and fewer of our World War II veterans remain with us. We can all remember the deeply emotional moment last year when thousands of World War II vets gathered here in our Nation's capital for the opening of the National World War II Memorial. Just as notable, though, are the smaller gatherings that take place around our Nation that provide veterans with the opportunity to renew old ties, to meet each other's families, and to reminisce about the unforgettable experiences they shared many years ago.

On that note, I would like to offer congratulations to Leo Kania of Middletown, CT, who served as a corporal in the 110th. This week's reunion is the 6th such event Mr. Kania has organized over the years. This weekend, members of the 110th will have the opportunity to tour the very boat that took them to Omaha Beach six decades ago. The dedication Mr. Kania has shown is a testament to his devotion to his battalion, his pride in his country, and his spirit of friendship.

I offer my congratulations and my humble thanks to the members of the 110th A.A.A. Gun Battalion, and I extend my best wishes to them and their families on this momentous anniversary.

REPORT BY THE INTERNATIONAL LABOR ORGANIZATION ON FORCED LABOR

Mr. KENNEDY. Mr. President, today, more than ever before in history, employees around the world are competing against each other for work. Too often, this competition has become a race to the bottom—whoever is willing to work for the lowest wages gets the work.

The most flagrant example of this is the unacceptable practice of forced labor. These modern slaves are compelled to work against their will, often as victims of human trafficking or ruthless governments.

A new report by the International Labor Office shows how massive the problem of forced labor is. According to the report, over 12 million people are its victims in today's world, and they produce $44 billion in profits for their overseers.

To combat the problem, the report urges countries to work together to reach a global solution. Countries need stronger laws to protect victims and punish perpetrators. They also need stronger law enforcement and more effective cooperation between labor ministries and law enforcement. Fair labor standards and acting to reduce poverty are essential as well.

This report is the most comprehensive analysis ever made on forced labor. I commend it to my colleagues, and I ask unanimous consent that the executive summary be printed in the RECORD. The full report is available from www.ilo.org.

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

A GLOBAL ALLIANCE AGAINST FORCED LABOUR

EXECUTIVE SUMMARY

THE CONCEPT OF FORCED LABOUR

A Global Alliance Against Forced Labour sheds new light on the nature and extent of forced labour in the world today, what ILO member States, workers' and employers' organizations and their partners are doing to tackle the problem, and what more must be done if this crime and violation of human rights is to be finally ended. As the second Global Report on forced labour under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, it focuses especially on the period since Stopping Forced Labour, its first report on the subject, was published in 2001.

This period has seen many important developments, in terms of heightened global awareness of the problems of contemporary forced labour, and particularly of trafficking in persons, and an increased understanding of what it involves—who and where are the victims and the perpetrators, how people get trapped in forced labour situations, and what kinds of measures have proved effective in preventing and combating this criminal practice, for which there can be no place in the twenty first century. Far from being a concern of only a minority of countries, forced labour in its different forms is a problem that pervades all societies—developing, transition and industrialized alike. It affects millions of people, and generates billions of dollars of profits for the exploiters of forced labourers.

The Report first sets out to clarify what the ILO means by forced labour. It certainly cannot be equated simply with low wages or poor working conditions. It comprises two basic elements: the work or service is exacted under the menace of a penalty, and it is undertaken involuntarily. This menace can take extreme forms such as physical violence, but also subtler forms such as confiscation of identity papers or threats of denunciation of irregular migrants to police authorities, in order to extract unfair advantage from them. A forced labour situation is determined by the nature of the relationship between a person and an ''employer'', and not by the activity performed. Nevertheless, there is a broad spectrum of working conditions and practices, ranging from extreme exploitation including forced labour at one end, to decent work with the full application of labour standards at the other. And within the area defined by law as forced labour, a range of coercive and deceptive mechanisms can be applied. The most appropriate law enforcement remedies may depend on the nature, and perhaps also the severity, of the coercive mechanisms being applied.

The rising global concern with human trafficking, together with new instruments against it, have prompted member States to give attention to the forced labour concept in criminal laws. The ''Palermo'' Trafficking Protocol to the UN Convention against Transnational Organized Crime introduces into international law the concept of exploitation, broken down broadly into labour and sexual exploitation. It is clear from the comments of the ILO supervisory bodies that coercive sexual exploitation also constitutes forced labour. Many countries at present do not provide in their legislation for the specific offence of forced labour. While the present momentum is towards establishing the criminal offence of trafficking, there is a need also to legislate against forced labour as a specific criminal offence.

MINIMUM ESTIMATE OF FORCED LABOUR IN THE WORLD

Today, at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. The remaining 2.5 million are forced to work by the State or by rebel military groups.

The numbers are highest in Asia, with 9,490,000 victims. Almost two-thirds of total

forced labour in Asia is imposed by private actors for economic exploitation, mostly debt bondage in agriculture and other economic activities. About one-fifth is imposed by the State in a few countries such as Myanmar. Forced labour for commercial sexual exploitation makes up less than one-tenth of the total.

Latin America and the Caribbean has 1,320,000 forced labour victims. 75 per cent is imposed by private actors for economic exploitation, followed by State-imposed forced labour (16 per cent) and forced labour in commercial sexual exploitation (9 per cent). Of the 660,000 forced labourers in Sub-Saharan Africa, 80 per cent are subject to economic exploitation, 11 per cent to State-imposed forced labour, and 8 per cent to commercial sexual exploitation. Of the 260,000 forced labour cases in the Middle East and North Africa (MENA), 88 per cent is for private economic exploitation, and 10 per cent for commercial sexual exploitation.

There are 360,000 forced labourers in industrialized countries, and 210,000 in transition countries. In both regions, forced labour for commercial sexual exploitation predominates. In industrialized countries however, almost one-quarter of victims are subject to non-sexual economic exploitation.

Approximately one-fifth of all forced labour globally—or 2.45 million persons altogether—is an outcome of trafficking. There are important regional variations. In Asia, Latin America and Sub-Saharan Africa, the proportion of trafficked victims is less than 20 per cent of all forced labour. In industrialized and transition countries, and in the Middle East and North Africa, it accounts for more than 75 per cent of all forced labour.

Women and girls are overwhelmingly involved in forced commercial sexual exploitation—accounting for 98% of the total of this form. Forced economic exploitation is more evenly divided between the sexes, although women and girls still account for more than half—56%. It is estimated that children aged less than 18 years represent between 40 and 50% of all forced labour victims.

A DYNAMIC GLOBAL PICTURE OF FORCED LABOUR

Since the first Global Report on the subject in 2001, the research and activities of the ILO's Special Action Programme to Combat Forced Labour (SAP–FL) have shed more light on recent trends in forced labour, and action to overcome it, in all regions of the world.

Generally, despite new laws and action programmes against trafficking, law enforcement against forced labour practices remains inadequate. There have been very few prosecutions of exploiters of forced labour anywhere. The offence of forced labour is often not identified as such in existing criminal law (though it may be under labour or administrative law). Penalties are often light. Important progress in combating impunity for forced labour offences has nevertheless been made in some countries, such as Brazil.

Forced labour imposed by the State, while not the largest problem in terms of numbers, remains a cause for serious concern. In Myanmar, the ILO has taken a lead in drawing attention to continued forced labour practices, which occur in particular in remote areas under the authority of the army. An ILO Liaison Officer has been able to assess the situation in person through field visits, while in May 2003 agreement was reached in principle between the Government and the ILO on a Joint Plan of Action against forced labour. By early 2005, however, the ILO was not in a position to move forward on this. Indeed the Myanmar case shows that it is impossible to make progress against forced labour when there is a climate of impunity, and repression against persons who denounce forced labour abuses.

In China, steps have been made towards reform of the Reeducation through Labour (RETL) system, an administrative measure including compulsory labour that is used for punishing minor offences. As of early 2004, some 260,000 persons were detailed under RETL. Reform to the RETL system is on the agenda of the current session of the National Peoples' Congress.

The forced labour aspects of prison labour have also been a cause for concern in industrialized countries. The focus has mainly been on the eradication of forced labour in private prisons, or by prisoners placed at the disposal of private companies. Yet some consensus is emerging that, while prison privatization is probably here to stay, the central issue in the debate should be how to secure minimum standards of work for those detained in all kinds of prison establishment. In this sense—while prison authorities tend to stress that work is only one aspect of the prison regime—there can be scope for labour inspection services to collaborate with prison authorities on matters which relate strictly to the work regime.

In developing countries there are clear links between poverty and discrimination on the one hand, and forced labour on the other. The victims are drawn from lower castes in parts of Asia, indigenous peoples in Latin America, the descendants of slaves or forest dwellers in Africa. Patterns of forced labour are nevertheless changing. In addition to traditional agrarian-based serfdom and servitude, new forms of coercion often linked to indebtedness are being detected in a range of sectors and industries, such as brick making, mining, rice mills and domestic work. The asset-poor or landless are particularly vulnerable to forced labour, when they move away from their home communities in search of work in distant parts of their own country, neighbouring countries or overseas. Similar patterns of coercive recruitment and debt bondage have been detected amongst seasonal and migrant workers in Africa, Asia and Latin America. Again, women and children can be especially prone to be trapped in exploitative living and working situations, from which they have great difficulty escaping.

Tackling such forced labour requires action at different levels. Downstream, there have been important community-based initiatives, using microfinance and other techniques to prevent forced labour and rehabilitate victims after release. Upstream, there is a need for clear policies and plans of action, mobilizing awareness, getting the involvement of different ministries, ensuring the cooperation of labour authorities and other law enforcement agents, and also securing the necessary resources for action against forced labour. One way to achieve this is to include forced and bonded labour concerns in Poverty Reduction Strategy Papers (PRSP) and similar policy instruments. Some models are emerging. Brazil and Pakistan have broad-based action plans against forced labour. Nepal and Pakistan address bonded labour in their PRSPs.

In Africa, the eradication of—and even the clear understanding of—forced labour poses complex challenges in a context of poverty and tradition. Unpaid services can be part of traditional kinship arrangements. There are reports that West Africans of slave descent still suffer discrimination and labour exploitation at the hands of former masters. Research points to a spectrum of situations, from the highly exploitative to the relatively benign. And in some African countries forced labour has occurred in a context of severe political violence and inter-ethnic conflict. Problems of contemporary forced labour include: slavery and abductions, debt bondage, forced overtime, unpaid compulsory labour for public servants, and forced domestic labour. There are prima facie reasons to believe that forced labour may be a widespread problem in the continent. But far more research and awareness raising is needed, to deepen understanding and chart out a way forward.

The scourge of human trafficking has now caught the world's attention. It is bringing forced labour concerns to the doorstep of industrialized countries. More and more, ILO partners realize that effective action against trafficking requires a focus on its forced labour outcomes, and on demand aspects in the destination countries as well as supply in the origin countries. ILO research in Europe and elsewhere has shed light on these issues, paving the way for improved policies and law enforcement. Affecting sectors including agriculture, construction, textiles and garments, restaurants and entertainment, health care, and domestic work, trafficking for labour exploitation often involves subtle forms of coercion rather than direct physical restraint. Unscrupulous employers exploit the precarious situation of irregular migrant workers in particular, removing identity documents, and threatening them with denunciation to the authorities and deportation if they do not accept substandard conditions of work. Migrant domestic workers are at particular risk of forced labour situations. So far, there have been very few convictions of abusive employers or intermediaries involved in the trafficking of domestic workers.

Forced labour and trafficking are not limited to the underground economy. With more research, it is becoming clearer that coercive practices can affect migrants in quite mainstream economic sectors. Deceptive practices by recruitment agencies, and long chains of subcontracting, can involve exorbitant transaction costs which drive even legally recruited migrants into debt bondage situations. There have been examples of good practice, such as the 2004 United Kingdom Gangmasters Act, which increase controls over such agencies. In transition countries however standards to monitor the work of recruitment agencies are still very weak. Government authorities, law enforcement agents and the social partners need training to prevent the risk of trafficking.

Trafficking is a highly lucrative business. The ILO estimates that total illicit profits produced annually by trafficked forced labourers are around US$ 32 Billion (half of this in industrialized countries and one third in Asia). This means an average of US$ 13,000 per year for each forced labourer. By far the highest profits are made from forced commercial sexual exploitation (US$ 27.8 Billion).

The apparent growth of trafficking for economic exploitation in all regions calls for serious thinking as to the most effective means to eradicate it. Vigorous law enforcement will always be part of the solution, but many other measures are required. Our previous (2001) Global Report depicted human trafficking as the ''underside of globalization''. The knowledge base has now shed further light on the linkages between forced labour more generally, and such aspects of globalization as global competition, migration and labour market deregulation. Without safeguards, competitive pressures can lead to forced labour. Eradicating coercive practices represents a major challenge for employers' and workers' organizations worldwide.

ILO ACTION AGAINST FORCED LABOUR

Spearheaded by its Special Action Programme to Combat Forced Labour (SAP–FL)

under the Declaration Follow-up, the ILO has progressively increased its profile and activities on forced labour over this four-year period. Guided by its Governing Body mandate, the programme has emphasized: advice on appropriate legislation; awareness raising on forced labour, among both the general population and key authorities; research and surveys, on the nature and extent of the problems; prevention, through advocacy, vigorous application of national laws and regulations, and by tackling underlying causes; and sustainable support and rehabilitation measures.

SAP–FL has been active in many parts of the world in a short period of time. Awareness-raising has been conducted in all regions, and with major international partners. There is growing consensus that forced labour is the key entry point for anti-trafficking action. Research—in South and South-East Asia, transition and industrialized countries and Latin America—has for the first time provided a full understanding of the nature of modern forced labour, and of the action needed to eradicate it. Law and policy advice have been provided to Asian countries including China, Mongolia and Vietnam, paving the way for ratification of the ILO's Conventions on forced labour.

Several ILO projects aim to strengthen institutional structures for combating forced labour. A Brazilian project supports the Government's National Action Plan against Slave Labour, working with several ministries, police, judiciary and labour authorities as partner agencies. The project, in part through a massive awareness campaign, has contributed to the significant rise in the number of forced labourers rescued in Brazil. In South Asia, a project to promote the prevention and elimination of bonded labour has gradually developed new tools for tackling this immense problem. With an initial focus on using microfinance to prevent bonded labour and assist the rehabilitation of released bonded labourers at the community level, it has moved increasingly into capacity-strengthening of Government agencies and other partners. In Pakistan, ILO assistance has largely been designed to support the goals first set out in the 2001 National Policy and Plan of Action on bonded labour.

On trafficking, research and studies in both origin and destination countries have prepared the ground for integrated programmes across the trafficking cycle, combining prevention, victim identification and protection, law enforcement, and rehabilitation of victims. As requested by international partners the ILO has taken a lead in providing guidance to member States on the forced labour and labour exploitation dimensions of trafficking, drawing on pertinent ILO standards. Operational projects are now under way in West Africa, South East Asia, China, and Eastern and Western Europe. In particular, these projects aim to involve labour authorities and other institutions including employers' and workers' organizations in action against trafficking, demonstrating the importance of their cooperation with police, prosecutors and law enforcement agencies in general.

ACTION PLAN: A GLOBAL ALLIANCE AGAINST FORCED LABOUR

The ILO now calls for a global alliance against forced labour. It will require national commitment to eradicate forced labour through plans with specific time horizons. National plans and programmes will need to be backed by extensive international assistance, notably from the development agencies and financial institutions concerned with poverty reduction. Asia, where the numbers affected by contemporary forced labour are the largest, must be the highest priority. The development agencies, which base their strategies on poverty targeting and the eradication of extreme poverty, should single out bonded labour systems for priority attention. In Latin America, where the incidence of forced labour is particularly severe amongst indigenous peoples, poverty reduction progammes and resources can be targeted at the peoples and areas affected.

As regards forced labour and trafficking, the destination countries need to take their share of responsibility. All countries need to include provisions against forced labour and trafficking in their criminal laws, involving labour law experts in the drafting process. There is a need for more awareness of the role of demand for cheap and flexible labour in the destination countries in giving rise to trafficking and forced labour, and also for more rational migration management.

Universities, research and policy institutions need to improve the knowledge base on forced labour. Priority can be given to the difficult issues, where there is currently a lack of consensus as to whether and which practices do constitute forced labour. One example is the forced labour aspects of prison labour.

The ILO can take an active leadership in this global alliance. It can set targets for eradicating the forced and bonded labour problems linked to structural poverty, as part of its contribution to achievement of the Millennium Development Goals. It can identify specific steps, with targets for the coming years, against the forced labour problems linked to globalization. Employers and workers' organizations will have a key role to play, the former developing codes of conduct to ensure vigilance against forced labour in supply chains, the latter helping the informal economy workers vulnerable to forced labour in their efforts to organize themselves and seek redress. Through their regional and international networks, transport and other unions can exercise permanent vigilance against human trafficking.

The ILO can help member States improve data gathering on forced labour. Reliable forced labour statistics must now be developed at the national level, providing benchmarks against which progress can be measured over time.

Through operational projects, the ILO can greatly help member States eradicate forced labour. The aim will be to develop ''models'' of intervention, which can then be applied on a wider scale by others. These should comprise linked components, addressing upstream policy and legal issues, as well as strengthening enforcement institutions and providing direct support for victims. In developing such integrated projects the ILO needs to draw on all its capacities, as they relate to employment promotion as well as the application of labour standards.

In developing projects, however, it must be remembered that hard policy decisions are required to end forced labour. Such instruments as microfinance are important for prevention and rehabilitation, and will always be part of the ''toolkit'' against forced labour. But to combat impunity, and to tackle the roots of either the more traditional or more modern forms of forced labour, member States may ultimately have to revisit their land, tenancy, labour market or even migration policies.

With courage and commitment to face up to the problems, and with the allocation of resources to meet the challenges, there is a real hope that forced labour can finally be relegated to history.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

Ms. CANTWELL. Mr. President, I rise today to say a few words in honor of the Asian and Pacific Islander communities of the United States. As my colleagues know, May marks Asian-Pacific American Heritage Month. Throughout this month, the United States celebrates the history, culture, and traditions of Asian and Pacific Islanders, and recognizes their unique contributions to the United States.

First proposed as a 1-week celebration in 1977, the occasion was expanded into a month-long event in 1990. May was chosen because of its unique significance to the history of Asian Americans. May 7, 1843 marked the first recorded immigration of Japanese to the United States, while May 10, 1869 marked the completion of the transcontinental railroad, which would not have happened when it did without the labor of Chinese immigrants.

The Asian and Pacific Islander population has a rich history in this country, especially in the Pacific Northwest. In my home State, records show the arrival of Asian immigrants as early as the 1860s, while some scholars even speculate that Chinese explorers sailed down the Alaskan coast to what is now Washington State centuries before. Today, there are nearly 13 million Asians and Pacific Islanders living in the United States, representing 4.4 percent of the population. In Washington, they make up nearly 6 percent of the citizenry.

Over the past century and a half, Asian and Pacific Islander communities have contributed significantly to the cultural vibrancy of Washington State. Individuals within Washington's Asian and Pacific Islander communities have also worked to stand up for justice and make our country a better place. In 1944, Gordon Hirabayashi, a Japanese-American student at the University of Washington in Seattle, took a stand against the unfair treatment of Japanese Americans during World War II when he refused to obey discriminatory curfew orders. In taking his case to the U.S. Supreme Court, he left a lasting reminder of the importance of standing up for civil rights.

America is a land of immigrants and our history demonstrates that we are stronger because of our diversity, not in spite of it. However, we can only live up to the promise of our diversity if we recognize the mistakes of our past and give all groups a voice in public discourse. Asian Americans have a powerful history in the Pacific Northwest, and I believe we cannot ignore its darkest period. For this reason, I was pleased to work with Senator PATTY MURRAY to secure Federal funding for a study of the Eagledale Ferry Dock site on Bainbridge Island, which served as a point of departure for members of the Japanese-American community on their way to internment camps during World War II. These funds are a critical

step toward commemorating the sacrifices and the strength of the Japanese-American community, and to recognizing an important chapter in the history of Bainbridge Island, my State, and our Nation.

I am proud to represent a State with a history of electing a diverse group of citizens to public office. In 1993, Filipina-American Velma Veloria became the first Asian-American woman to serve in the Washington State Legislature. Over the past decade, her work to fight human trafficking and promote peace and social justice has truly made my State a better place. Since then, Washington State has also seen the service of Gary Locke, Washington's first Asian-American Governor, and Paul Shin, the first Asian American to serve in the State senate. In fact, the rich history of Asians and Pacific Islanders holding elected office in Washington State dates back to 1962, when Wing Luke, a decorated World War II veteran and former Assistant Attorney General of the State of Washington, won a seat on Seattle's city council. Today, his legacy is commemorated in Seattle's Wing Luke Asian Museum, along with the stories of thousands of other Asian immigrants. I am personally honored to be involved in renovating the museum's East Kong Yick building, one of the first two buildings in Seattle owned by nonwhites. The museum is both a local and national treasure, respected as a Smithsonian affiliate and honored at the White House 10 years ago with the National Award for Museum Services.

As this year's Asian Pacific American Heritage month begins, I believe it is important to preserve the lessons of the past, while recognizing the immense benefit we all receive from living in a diverse country built on the contributions of immigrants from around the globe. Diversity, and the exposure to other customs and ideas that it involves, leads to opportunity and gives the United States much of its strength. In celebrating the rich history, culture, and traditions of Asian and Pacific Islanders this May, we recognize their important contributions to the strength and diversity of our country, and to the bright future that lies ahead.

PASSING OF VICKI COTTRELL

Mr. HATCH. Mr. President, with the untimely death of Vicki Cottrell, Utah's executive director of the National Alliance for the Mentally Ill, NAMI, a powerful and compassionate voice who spoke for those who suffer the effects of mental illness has been silenced. Vicki Cottrell's untiring efforts across Utah, in the legislature, in the jails and mental health courts, among community and religious leaders, and among families, will be difficult to replace. The passionate spirit and vision that she shared with her staff will continue.

Before working for NAMI Utah, Vicki worked in computer software sales. But after her daughter was diagnosed with schizophrenia, Vicki formed her own support group for people who have loved ones with a mental illness. Eventually, she merged her group with NAMI Utah.

Over the past 20 years, Vicki has worked for the National Alliance for the Mentally Ill's Utah affiliate. She started as a volunteer teaching classes and worked her way up to the executive director's post. Going the distance to places like Logan was common for her, and she took a message of advocacy around the State. Vicki's influence did not just reach inside Utah's borders, though. Upon hearing of her death, NAMI members and friends from across the country brought forth an outpouring of sympathy.

Governor Jon Huntsman, Jr. expressed his condolences noting that Vicki helped educate many about mental illness and the way new medical treatments help the afflicted lead very productive lives. He said, ''She traveled throughout the Nation sharing this message of hope and will be greatly missed by all who knew her.''

Vicki was a member of my Advisory Committee on Disability Issues for the State of Utah. She worked closely with my office and visited with me and my staff in both Washington and Utah to advocate for the needs of the mentally ill. Her strong commitment to those suffering from mental illness was well known throughout Utah. She provided valuable insights to the Advisory Committee and will be missed by all of the committee members.

The love and respect so many felt for Vicki Cottrell came from her willingness to use her own family's struggle with schizophrenia as an example and turn it into something to help others cope. She worked hard to eliminate the stigma often attached to mental illness, and was tireless, energetic and motivated in her mission.

Vicki's grace, humanity, and love touched every life she met. Her public life never overshadowed her deep devotion for her 6 children and 10 grandchildren. She was a loyal friend and enjoyed close relationships with many. Her beautiful and well-attended garden was a metaphor for her life.

I ask that my colleagues please join me in extending heartfelt sympathies to Vicki's family and friends. The magnitude of the loss for Utah and the Nation is substantial.

ADDITIONAL STATEMENTS

HONORING MG RICHARD S. COLT

• MR. CRAPO. Mr. President, I rise to honor one of the great Army Reserve generals in the United States of America. MG Richard S. Colt has served as the commanding general of the 77th Regional Readiness Command based at Fort Totten, NY, for the last 4 years, and I am honored to recognize him on the floor of the Senate. He celebrates his retirement after 38 years of service to this country. While I am a Senator from Idaho and he is a commanding general from the State of New York, he deserves all of our praise because he was on duty in New York City on September 11, 2001.

Major General Colt is a Vietnam veteran who has always put soldiers first. His emphasis on readiness and training has prepared our citizen soldiers for the current global war on terror.

General Colt is among the finest this country has to offer, and he leads by example. He trains, teaches, and leads his soldiers. He will be sorely missed by his soldiers and by all of us who cherish freedom. We honor his service, congratulate him on his retirement, and reflect on the accomplishments of this great leader.

His dates of service are from July 25, 1967 to June 19, 2005. I know that his family is very proud of him, including his wife Dorothy and his daughters Mary Colt and Jennifer Sullivan and grandson Ryan Richard Sullivan.•

A LIFE OF TEACHING, A LOVE OF LEARNING, A HEART FOR CHILDREN

• Mr. CRAPO. Mr. President, I am honored to recognize a truly remarkable individual today. Gail Chumbley is a history teacher at Eagle High School in Eagle, ID. A high school history teacher; there are many individuals who can claim this job title but few who have done so much. Gail is an amazing teacher, passionately devoted to teaching our American experience to her students. Not only does she teach about events in our Nation's history, she has ventured into the next realm, moving the tenets of American citizenship into the real world for her students.

I first heard of Gail's efforts 4 years ago when she became actively involved in the Library of Congress's Veterans Oral History Project four years ago. At that time, she had organized the recording of over 300 oral histories for Eagle High School's library alone. She expanded the effort to include other Idaho schools and collaborated with local civics groups to record literally hundreds more interviews that went to both the Eagle High School archives and the Idaho Oral History Center. One of the most significant accomplishments of Gail and her students was their participation in the Veterans Stand Down in Boise where homeless veterans were given the opportunity to record interviews. Her efforts were not confined to veterans of past wars. Gail and her students also have sent gift boxes and cards to our current service women and men in Iraq and Afghanistan since 2002. She was instrumental in making Eagle High School the top school donor for the World War II Memorial, with a donation of close to $25,000. The list of her accomplishments, enhanced further with her national recognition by the Daughters of

the American Revolution this year is long, but that is not the focus of my remarks today.

Gail has turned the teaching of history and civics into the action of patriotism. Perhaps the most compelling and significant accomplishment of Gail Chumbley is not her esteemed list of awards and honors, which are many and richly-deserved. Her most important contribution is her role in creating a sense of citizenship within the hearts and intellect of many Idaho young people. This citizenship lives on in these students as they grow into adulthood and manifests itself in their actions, commitments and convictions. It is an entity that grows exponentially and of its own volition, eclipsing plaques, certificates and statuettes. These gather dust, but what they represent are the pillars upon which our country stands firm. This living citizenship is immortalized by the marbled statues of men and women not far from here, and in words carved of the same.

I honor Gail Chumbley today: American patriot, exemplary citizen and role model for all of us.●

TRIBUTE TO JOSEPH P. FITZGERALD

● Mr. HARKIN. Mr. President, I salute Joseph P. Fitzgerald, who is retiring after 33 years of dedicated service to the Government and people of the United States of America.

For the past quarter century, Mr. Fitzgerald has worked in the Audiovisual Program Development Branch at the Lister Hill National Center for Biocommunications, which is part of the National Library of Medicine at the National Institutes of Health in Bethesda, MD. Mr. Fitzgerald, who is a renaissance man of creative vision and artistic talent, has made exceptional contributions to the outreach and communications mission of the largest biomedical library in the world. As technological advances in the dissemination of both visual and text-based information have evolved over the past 25 years, Mr. Fitzgerald has led the way in adopting computer-based graphics systems. And he has helped the National Library of Medicine to communicate the most current and reliable medical and consumer health information to medical professionals, researchers, patients, families and the public.

The number 25 figures prominently in the life story of Joe Fitzgerald for another reason, too. He recently became the 25th person in the history of the Republic to execute a design for the front of a circulating coin. His groundbreaking portrait of Thomas Jefferson graces the new U.S. five-cent coin, as will his obverse design of the Lewis and Clark expedition, which will be released in August. Both commissions were awarded as part of the United States Mint at the Treasury Department's Artistic Infusion Program. Mr. Fitzgerald's portrait of Thomas Jefferson marks the first redesign of the front of the nickel in 67 years. His nickel designs have been acclaimed throughout the coin collecting community, and Mr. Fitzgerald has received significant national press attention.

Joe Fitzgerald earned a B.A. in fine arts from the University of Maryland, College Park and pursued graduate studies in printmaking at the State University of New York at Oswego. He has served several Federal agencies: the United States Postal Service, summers, 168–1972; the Food & Drug Administration, 1972–1973; the Consumer Product Safety Commission, 1973–1980; and the National Library of Medicine, 1980–2005. Mr. Fitzgerald has earned numerous awards for outstanding contributions and service to the National Library of Medicine, including the 1996 NLM Director's Honor Award for exceptional contributions to the mission of the library through the creative application of his artistic talent, and the 2003 National Institutes of Health Award for Merit for his organization, coordination and congenial leadership in effectively orchestrating the ''Turning the Pages'' historical medical books program.

In addition, Mr. Fitzgerald is a gifted fine artist. Nationally recognized for his work in paint, pastel and digital media, his creations have been sent around the world through the Embassy Art program, and are held in many private collections. He is currently represented by the Foxhall Gallery in Washington, DC.

Joe Fitzgerald is one of the most beloved individuals ever to tread the NIH campus, and I wish him well in his retirement. He is married to Jean Hill Fitzgerald, another career civil servant who currently works at the National Archives. I thank Joe for distinguished career in public service, and I wish him many years of happiness in retirement.●

HONORING THE ACCOMPLISHMENTS OF MR. JIM HUFF

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Jim Huff of Northern Kentucky who was recently honored with one of the ''Movers and Shakers'' awards for the Greater Cincinnati area. Mr. Huffs life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

Over the past 60 years, Mr. Huff has grown to be a leader both within the community of Northern Kentucky and within the real estate industry. He has served as chairman of the Kentucky Real Estate Commission for five consecutive terms. During this time he established a statewide errors and omissions insurance platform, which continues to serve the needs of Kentucky real estate practitioners today. In 1981, he was awarded Realtor of the Year by the Kenton-Boone Board of Realtors, for which he later served as president.

Throughout his life, Mr. Huff has always been active in civic affairs in Northern Kentucky. He has been an integral part of his community serving on numerous boards, including Northern Kentucky University Foundation, Saint Elizabeth Medical Foundation, Kids Helping Kids, Cincinnati and Northern Kentucky Fine Arts Foundation and as a trustee for Thomas More College.

The ''Movers and Shakers'' award of Northern Kentucky is an annual award presented to honor those within the greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky, and The Kentucky Post.

As a Senator from Kentucky, I appreciate the devotion Mr. Huff has shown over the years to the citizens of Kentucky. I commend his efforts and hope his example of dedication and hard work will serve as an inspiration to the entire State.●

RACIST MANIFESTATIONS IN ROMANIA DESERVE GOVERNMENT RESPONSE

● Mr. BROWNBACK. Mr. President, as chairman of the Helsinki Commission, I welcomed the recent visit of Romanian Foreign Minister Razvan Ungureanu, and I regret that I was not in Washington to meet with him. Our countries have forged closer links, and I hope that trend will continue.

While there have been many positive reforms implemented in Romania, unfortunately the situation of the Romani minority is largely the same. Romania has the largest Roma minority in Europe, estimated at 1.5–2 million people. They remain profoundly marginalized and subjected to pervasive discrimination and prejudice.

On April 13, for example, a soccer match in Bucharest turned very, very ugly. Fans of one team, Steaua Bucharest, unfurled a banner reading ''We have always had and will always have something against Gypsies.'' They chanted, ''We have always hated Gypsies and we have always urinated on you.'' During the game, the stadium announcer played an anti-Roma song called ''Gypsies and UFOs'' and made anti-Roma remarks. The coach of Steaua Bucharest called the coach of the opposing team a ''stinking Gypsy.'' The opposing team, Rapid Bucharest, is from a district with a significant Romani minority.

Response to this rabid anti-Roma manifestation was swift with mixed results.

On April 20, the Romanian Football League suspended the stadium announcer for 6 months. But the League also sanctioned both teams that were present at the April 13 match: Steaua Bucharest, the team responsible for hurling racist invective was fined, but so was Rapid Bucharest, the team against whom these slurs were directed. While it is completely appropriate for a sports league to police

itself and its members, sanctioning those who were the targets of this abuse makes no sense. No one will be fooled by the League's effort to appear pro-active and even-handed while punishing the very people who were the victims of abuse.

The National Council for Combating Discrimination, a Romanian Government body, also sanctioned the offending team about $1400 and fined the stadium announcer about $600. The fact that a governmental body so quickly recognized the racist nature of these events was a positive signal. However, any time a state positions itself to regulate speech, there is the risk that free speech, which may include unpopular or controversial views, will be unduly limited. I believe there are other ways to combat racist, xenophobic, or anti-Semitic manifestations. In particular, it is critical that Romania's public leaders, including President Traian Basescu, speak out against such manifestations.

Unfortunately, the April 13 events were not an isolated phenomenon, but part of a pattern of racist abuse in Romania. In 2002, scores of fans at a Bucharest soccer match worked in concert to display a massive sign reading ''Die, Gypsy.'' In 2003, like-minded fans displayed a sign reading ''One million crows, one solution—Antonescu.'' ''Crow'' is a pejorative slang term in Romanian for a member of the Romani minority. General Ion Antonescu was Romania's World War II fascist dictator who spearheaded the selection of Roma for deportation to Transnistria.

These manifestations tell us two things. First, it is not enough for public leaders to leave it to the National Council for Combating Racism to speak out against these manifestations. Romania's highest leaders must stand up and confront such outrages. Those who would foment racism, and who potentially incite racist violence, must be given no safe harbor. Invoking praise for the World War II dictator who oversaw the persecution of Romania's Jews and Roma is despicable.

Second, these manifestations underscore the need for continued efforts to improve Holocaust education in Romania.

Following decades of denial, the Government of Romania has made great strides in the past year in recognizing Romania's role in the Holocaust and in the deportation and death of Jewish and Romani citizens. The government is to be commended for taking steps to examine this dark and painful chapter in the country's history. Last November, the International Commission for the Study of the Holocaust in Romania, led by Elie Wiesel, officially issued its findings in Bucharest. In addition to the establishment of a national Holocaust Remembrance Day, which Romania marks on October 9, the Commission recommended that Romania establish a national Holocaust memorial and museum in Bucharest, annul war criminal rehabilitations and develop a Holocaust education curricula and courses in secondary schools and universities. I hope the Government of Romania will move quickly to implement the Wiesel Commission's recommendations.

With this in mind, I was heartened to learn that in April the U.S. Embassy in Bucharest hosted the premier of ''Hidden Sorrows,'' a documentary about the tragic deportation of 25,000 Roma from Romania to Transnistria during the Holocaust; more than 11,000 men, women and children died from the horrific conditions of their internment. Several, nearly 100-year-old survivors attended the premier, adding a deeply personal element to the documentary's message.

From the Inquisition to the Holocaust, Roma have suffered some of humanity's worst abuses. They were enslaved in Romania until the formation of the modern Romanian state in 1864. They were persecuted and deported and murdered during the Holocaust. Even after the fall of Ceausescu, they were subjected to dozens of pogroms. And yet they have survived.

The Romani people, who have endured so much, should not be made to suffer at a time that otherwise holds so much promise and hope for so many. We must ensure that these people, their culture, and their heritage are not destroyed by hatred and violence.●

MESSAGES FROM THE HOUSE

At 12:33 p.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. 1279. An act to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes.

The message also announced that pursuant to section 637(d)(I) of the Help Commission Act (22 U.S.C. 2394b) and the order of the House of January 4, 2005, the Speaker appoints the following members on the part of the House of Representatives to the Helping to Enhance the Livelihood of People (HELP) House Around the Globe Commission: Mr. Robert H. Michel of Washington, D.C., Mrs. Jennifer Dunn of Virginia, Mr. William C. Lane of Virginia, and Mr. Nicholas Eberstadt of Virginia.

The message further announced that pursuant to section 801 of Public Law 101–696 (40 U.S.C. 188a(c)), the Chairman (Mr. NEY) of the Joint Committee on the Library appoints the following Member of the House of Representatives as his designee to the Capitol Preservation Commission: Mr. MICA of Florida.

The message also announced that pursuant to 44 U.S.C. 2702, the Clerk of the House appoints the following individual on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Susan Palmer of Aurora, Illinois.

At 6:19 p.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. 1544. An act to provide faster and smarter funding for first responders, and for other purposes.

The message also announced that pursuant to 20 U.S.C. 2004(b), and the order of the House of January 4,2005, the Speaker appoints the following Members of the House of Representatives to the Board of Trustees of the Harry S Truman Scholarship Foundation: Mr. AKIN of Missouri and Mr. SKELTON of Missouri.

The message further announced that pursuant to 10 U.S.C. 6968(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Naval Academy: Mr. CUNNINGHAM of California and Mr. WICKER of Mississippi.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1279. An act to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes; to the Committee on the Judiciary.

H.R. 1544. An act to provide faster and smarter funding for first responders, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

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–2099. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a list of officers authorized to wear the insignia of brigadier general; to the Committee on Armed Services.

EC–2100. A communication from the Principal Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of officers authorized to wear the insignia of the next higher grade to the Committee on Armed Services.

EC–2101. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of vice admiral; to the Committee on Armed Services.

EC–2102. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of admiral; to the Committee on Armed Services.

EC–2103. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of general; to the Committee on Armed Services.

EC–2104. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–2105. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–2106. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–2107. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Multiyear Contracting'' (DFARS Case 2004–D024) received on May 8, 2005; to the Committee on Armed Services.

EC–2108. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Reporting Contract Performance Outside the United States'' (DFARS Case 2004–D001) received on May 3, 2005; to the Committee on Armed Services.

EC–2109. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Personal Services Contracts'' (DFARS Case 2003–D103) received on May 3, 2005; to the Committee on Armed Services.

EC–2110. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Unique Item Identification and Valuation'' (DFARS Case 2003–D081) received on May 3, 2005; to the Committee on Armed Services.

EC–2111. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled ''Trade and Employment Effects of the Andean Trade Preference Act''; to the Committee on Finance.

EC–2112. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the Andean Trade Preference Act; to the Committee on Finance.

EC–2113. A communication from the Chairman, Advisory Committee for Trade Policy Negotiations, transmitting, pursuant to law, the Committee's report on the Extension of Trade Promotion Authority; to the Committee on Finance.

EC–2114. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Implementation of the Medicare Prescription Drug Benefit''; to the Committee on Finance.

EC–2115. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the report of and investigation entitled ''The Impact of Trade Agreements Implemented Under Trade Promotion Authority''; to the Committee on Finance.

EC–2116. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''The Use of Specific Claims Payment Error Rates to Improve Effectiveness and Performance of Medicare Contractor Provider Education and Outreach Programs''; to the Committee on Finance.

EC–2117. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates, Policy Changes, and Clarification'' (RIN0938–AN28) received on May 4, 2005; to the Committee on Finance.

EC–2118. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures'' (CMS–1478–IFC) received on May 4, 2005; to the Committee on Finance.

EC–2119. 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 ''Diesel Fuel and Kerosene Excise Tax; Dye Injection'' ((RIN1545–BE44)(TD 9199)) received on May 3, 2005; to the Committee on Finance.

EC–2120. 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 ''Section 29 Inflation Adjustment Factor'' (Notice 2005–33) received on May 3, 2005; to the Committee on Finance.

EC–2121. 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 ''Medical Rebates'' ((Rev. Rul. 2005–28)(RR–142416–02)) received on May 3, 2005; to the Committee on Finance.

EC–2122. 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 ''Electronic Submission under Rev. Rul. 2005–6'' (Notice 2005–35) received on May 4, 2005; to the Committee on Finance.

EC–2123. 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 ''Implementation of Election and Notice Provisions of Section 104 of the Pension Funding Equity Act'' (Notice 2005–40) received on May 4, 2005; to the Committee on Finance.

EC–2124. 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 ''Designation of Dividends by a RIC'' (Rev. Rul. 2005–31) received on May 8, 2005; to the Committee on Finance.

EC–2125. 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 ''Automatic Consent to Change to the Alternative Tax Book Value Method for Expense Appointment'' (Rev. Proc. 2005–28) received on May 8, 2005; to the Committee on Finance.

EC–2126. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a report of proposed legislation relative to extending the life of the United States Parole Commission; to the Committee on the Judiciary.

EC–2127. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual Program Performance Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2128. A communication from the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the Department's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–2129. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Performance and Accountability Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2130. A communication from Director, National Science Foundation, transmitting, pursuant to law, the Foundation's Fiscal Year 2004 Performance Highlights Report; to the Committee on Homeland Security and Governmental Affairs.

EC–2131. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Commission's annual report summarizing its activities for calendar year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2132. A communication from the President, Overseas Private Investment Corporation (OPIC), transmitting, pursuant to law, OPIC's Management Report for Fiscal Year 2004, the OPIC Fiscal Year 2006 Performance Budget, OPIC Fiscal Year 2004 Performance and Accountability Report, a Report on Development and U.S. Effects of OPIC's Fiscal Year 2004 Projects, a Report on Cooperation with Private Insurers, and a Report on the Environment; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 536. A bill to make technical corrections to laws relating to Native Americans, and for other purposes (Rept. No. 109–67).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. SPECTER for the Committee on the Judiciary.

William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. SANTORUM:

S. 1008. A bill to amend the Internal Revenue Code of 1986 to add meningococcal vaccines to the list of taxable vaccines for purposes of the Vaccine Injury Compensation Trust Fund; to the Committee on Finance.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 1009. A bill to direct the Secretary of the Interior to extend certain water contracts in Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. BINGAMAN, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. GRAHAM, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. DORGAN):

S. 1010. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. LEVIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. DORGAN, Mr. SCHUMER, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, and Ms. STABENOW):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mr. NELSON of Florida, and Mr. KENNEDY):

S. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARTINEZ:

S. 1016. A bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. VITTER, Mr. BAUCUS, Ms. MURKOWSKI, Mr. CRAPO, Mr. ENZI, and Mr. CORZINE):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN:

S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a combat operation; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mr. PRYOR):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

By Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 1024. A bill to revitalize suburban communities, and for other purposes; to the Committee on Finance.

By Mr. ROBERTS:

S. 1025. A bill to amend the Act entitled ''An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes'' to authorize the Equus Beds Division of the Wichita Project; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 1027. A bill to exempt the natural aging process in the determination of the production period for distilled spirits under section 263A of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes; to the Committee on Armed Services.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mr. JEFFORDS, and Mrs. CLINTON):

S. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; 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. BIDEN (for himself, Mr. SESSIONS, and Mr. COBURN):

S. Res. 136. A resolution designating the month of May 2005 as ''National Drug Court Month''; considered and agreed to.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DODD, Mr. FEINGOLD, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mr. KENNEDY, and Mrs. BOXER):

S. Res. 137. A resolution designating May 1, 2005, as ''National Child Care Worthy Wage Day''; considered and agreed to.

By Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, Mr. ENZI, Mr. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGAMAN, and Mr. CRAIG):

S. Res. 138. A resolution designating July 23, 2005, ''National Day of the American Cowboy''; considered and agreed to.

By Mr. REID (for himself, Mr. FRIST, and Mr. MCCAIN):

S. Res. 139. A resolution expressing support for the withdrawal of Russian troops from Georgia; considered and agreed to.

By Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mr. CORZINE, Mr. LUGAR, Mr. FEINGOLD, Mr. INHOFE, Mr. BAYH, Mr. DEWINE, Mr. LAUTENBERG, Mr. SANTORUM, Mr. SALAZAR, Mr. COBURN, Mr. LIEBERMAN, Mr. MCCAIN, Mr. CRAIG, Mrs. DOLE, Mr. ENSIGN, Mr. VITTER, and Mr. ALLEN):

S. Res. 140. A resolution expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people; to the Committee on Foreign Relations.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. STEVENS, Mr. DURBIN, Mr. COLEMAN, Mr. DODD, and Mrs. MURRAY):

S. Res. 141. A resolution designating September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; considered and agreed to.

By Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Con. Res. 32. A concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Utah (Mr.

HATCH) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 267

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 330

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 330, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 340

At the request of Mr. LUGAR, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 340, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 390

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 390, a bill to amend title XVIII of the Social Security Act to provide for coverage of ultrasound screening for abdominal aortic aneurysms under part B of the medicare program.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Arkansas (Mr. PRYOR) 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. 440

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 467

At the request of Mr. SCHUMER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 471

At the request of Mr. SPECTER, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 558

At the request of Mr. REID, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 582

At the request of Mr. PRYOR, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor 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. 594

At the request of Mr. SPECTER, the name of the Senator from Virginia (Mr. WARNER) 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. 637

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 681

At the request of Mr. HATCH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 681, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 714

At the request of Mr. SMITH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 714, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. SMITH), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 802

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 802, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 853

At the request of Mr. LUGAR, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 853, a bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 863

At the request of Mr. CONRAD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 865

At the request of Mr. VOINOVICH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 865, a bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

S. 967

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 967, a bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes.

S. 984

At the request of Ms. SNOWE, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 984, a bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

S. RES. 104

At the request of Mr. FEINGOLD, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. LEAHY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

AMENDMENT NO. 670

At the request of Mr. OBAMA, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 670 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 681

At the request of Mrs. CLINTON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 681 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 704

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 704 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 708

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 708 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 732

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 732 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 733

At the request of Mr. ALEXANDER, the names of the Senator from Virginia (Mr. WARNER), the Senator from Alaska (Mr. STEVENS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of amendment No. 733 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

Mr. JEFFORDS. Mr. President, I have long been a proponent of measures that support historic preservation and economic development, and it is in keeping with that tradition that I rise today to introduce the National Historic Country Store Preservation Act of 2005.

This bill establishes a national program to support historic country store preservation that will aid in the revitalization of rural villages and community centers nationwide.

For many Americans, the country store invokes an image of a simpler life before much of this country became stamped with shopping malls and the ''big-box'' store.

But for thousands of people living in Vermont and for millions more living in rural communities across the United States, a visit to the local country store is a regular part of one's daily life.

They are centers of commercial activity in the towns they serve and embody the core of American small business entrepreneurship.

Many of these vital small businesses have been passed down among family members for generations. They are operated in buildings that have existed for as long as 150 years.

In fact, by one of the more vigorous standards in Vermont, a country store is only considered historic if it was built before the Winooski River Flood of 1927.

In my hometown of Shrewsbury, VT, the Pierce Store was the hub of our small community when my wife Liz and I settled there in 1963.

Run by the four Pierce siblings, Marjorie, Glendon, Marion and Gordon, the store was the place to go for a neighborly chat as much as for your milk and butter.

Children would get off the bus to buy their penny candy. Glendon Pierce could tell a great tale, and the political banter was endless.

With its antique cash register and woodstove, this was the quintessential general store.

Unfortunately, the Pierce Store closed its doors some years back and Shrewsbury lost a vital part of its identity.

There has been a recent attempt to revive the store, and I hope, for the sake of my community, it proves successful.

Despite their small relative size and market share, historic country stores have demonstrated incredible resiliency, surviving floods and fires, overcoming economic downturns, and reformulating their inventories to meet modern needs.

According to the Vermont Grocers' Association, country stores account for an estimated $55 million annually in retail sales in Vermont.

Nonetheless, competition from larger chain stores continues to increase.

When coupled with the additional cost and expertise required to maintain their aging structures and external facades, today's remaining country stores are hard-pressed to overcome these unprecedented challenges.

In Vermont, a handful of historic country stores close each year and the cumulative impact of those losses is experienced throughout the State.

The National Trust for Historic Preservation has listed the entire State of Vermont among America's ''Eleven Most Endangered Places,''

That is due to the threat that large-scale development poses to Vermont's small, independent retailers.

Yet country stores remain fixtures of Vermont's landscape. The Vermont Alliance of Independent Country Stores estimates that more than 115 historic country stores are scattered about the State.

Across the country, thousands of these establishments help to define the character of rural life.

These country stores draw local customers and tourists alike, offering convenient access to newspapers, groceries and local specialty foods in a typically neighborly atmosphere.

Many stores also double as local post offices or outdoor camping and home hardware goods suppliers. It is not unusual, and highly recommended, that customers buy a fresh whole wedge of cheddar cheese from a 38-pound wheel next to the cash register.

Fathers can buy earthworms and tackle and take their daughters to the nearby fishing hole for an afternoon excursion.

The National Historic Country Store Preservation Act of 2005 is designed to build upon the momentum that country store preservation work has generated in Vermont and to gather useful models and information to develop a program that supports historic, rural country stores nationwide.

My legislation authorizes the U.S. Economic Development Administration to make grants to national, State

and local agencies and non-profit organizations to support historic country store preservation efforts.

The bill promotes the study of best practices for preserving structures, improving profitability and promoting collaboration among country store proprietors.

In addition, the bill establishes a revolving loan fund. The fund will be used for research and restoration work.

It will be used to improve our understanding of existing needs and provide the assistance required to address them.

This bill seeks to sustain America's rural heritage by uniting small business development and historic preservation.

I encourage my colleagues to join me in my efforts to protect our Nation's historic country stores and revitalize our rural communities.

I ask that a summary of the legislation be printed in the RECORD.

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

S. 1011

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Historic Country Store Preservation Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) historic country stores are lasting icons of rural tradition in the United States;

(2) historic country stores are valuable contributors to the civic and economic vitality of their local communities;

(3) historic country stores demonstrate innovative approaches to historic preservation and small business practices;

(4) historic country stores are threatened by larger competitors and the costs associated with maintaining older structures; and

(5) the United States should—

(A) collect and disseminate information concerning the number, condition, and variety of historic country stores;

(B) develop opportunities for cooperation among proprietors of historic country stores; and

(C) promote the long-term economic viability of historic country stores.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNTRY STORE.—

(A) IN GENERAL.—The term ''country store'' means a structure independently owned and formerly or currently operated as a business that—

(i) sells or sold grocery items and other small retail goods; and

(ii) is located in a nonmetropolitan area, as defined by the Secretary.

(B) INCLUSION.—The term ''country store'' includes a cooperative.

(2) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means—

(A) a State department of commerce or economic development;

(B) a national or State nonprofit organization that—

(i) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, or preservation of historic country stores;

(C) a national or State nonprofit trade organization that—

(i) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) acts as a cooperative to promote and enhance country stores; and

(D) a State historic preservation office.

(3) FUND.—The term ''Fund'' means the Historic Country Store Revolving Loan Fund established by section 5(a).

(4) HISTORIC COUNTRY STORE.—The term ''historic country store'' means a country store that—

(A) has operated at the same location for at least 50 years; and

(B) retains sufficient integrity of design, materials, and construction to clearly identify the structure as a country store.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce, acting through the Assistant Secretary for Economic Development.

SEC. 4. HISTORIC COUNTRY STORE PRESERVATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a historic country store preservation program—

(1) to collect and disseminate information on historic country stores;

(2) to promote State and regional partnerships among proprietors of historic country stores; and

(3) to sponsor and conduct research on—

(A) the economic impact of historic country stores;

(B) best practices to—

(i) improve the profitability of historic country stores; and

(ii) protect historic country stores from foreclosure or seizure; and

(C) best practices for developing cooperative organizations that address the economic and historic preservation needs of historic country stores.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

(2) ELIGIBLE PROJECTS.—A grant under this subsection may be made to an eligible entity for a project—

(A) to rehabilitate or repair a historic country store;

(B) to identify, document, and conduct research on historic country stores; and

(C) to develop and evaluate appropriate techniques or best practices for protecting historic country stores.

(3) REQUIREMENTS.—An eligible applicant that receives a grant for an eligible project under paragraph (1) shall comply with all applicable requirements for historic preservation projects under Federal, State, and local law.

(c) COUNTRY STORE ALLIANCE PILOT PROJECT.—The Secretary shall carry out a pilot project in the State of Vermont under which the Secretary shall conduct demonstration activities to preserve historic country stores, including—

(1) the collection and dissemination of information on historic country stores in the State;

(2) the development of collaborative country store marketing and purchasing techniques; and

(3) the development of best practices for historic country store proprietors and communities facing transitions involved in the sale or closure of a historic country store.

SEC. 5. HISTORIC COUNTRY STORE REVOLVING LOAN FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Historic Country Store Revolving Loan Fund'', consisting of—

(1) such amounts as are appropriated to the Fund under subsection (b);

(2) ⅓ of the amounts appropriated under section 7(a); and

(3) any interest earned on investment of amounts in the Fund under subsection (d).

(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to—

(1) the amounts repaid on loans under section 6; and

(2) the amounts of the proceeds from the sales of notes, bonds, obligations, liens, mortgages and property delivered or assigned to the Secretary pursuant to loans made under section 6.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under section 6.

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this Act.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 6. LOANS FOR HISTORIC COUNTRY STORE REHABILITATION OR REPAIR PROJECTS.

(a) IN GENERAL.—Using amounts in the Fund, the Secretary may make loans to historic country store proprietors and eligible applicants for projects to purchase, rehabilitate, or repair historic country stores.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for a loan under this section, a country store proprietor or eligible applicant shall submit to the Secretary an application for a loan.

(2) CONSIDERATIONS FOR APPROVAL OR DISAPPROVAL.—In determining whether to approve or disapprove an application for a loan submitted under paragraph (1), the Secretary shall consider—

(A) the demonstrated need for the purchase, construction, reconstruction, or renovation of the historic country store based on the condition of the historic country store;

(B) the age of the historic country store; and

(C) the extent to which the project to purchase, rehabilitate, or repair the historic country store includes collaboration among historic country store proprietors and other eligible applicants.

(c) REQUIREMENTS.—An eligible applicant that receives a loan for a project under this section shall comply with all applicable standards for historic preservation projects under Federal, State, and local law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act, $50,000,000 for the period of fiscal years 2006 through 2011, to remain available until expended.

(b) COUNTRY STORE ALLIANCE PILOT PROJECT.—Of the amount made available under subsection (a), not less than $250,000 shall be made available to carry out section 4(c).

SENATOR JAMES M. JEFFORDS SUMMARY

NATIONAL HISTORIC COUNTRY STORE PRESERVATION ACT OF 2005—MAY 12, 2005

The National Historic Country Store Preservation Act of 2005 authorizes the Secretary of the Economic Development Administration to establish a National Historic Country Store Preservation Program. This program will sponsor and conduct research on the economic impact of historic country stores and on best practices for improving profitability and addressing their historic preservation and small business development needs. The National Historic Country Store Preservation Program will offer small grants and revolving loans to State and local agencies, non-profit organizations, and historic country store proprietors for the purpose of historic country store preservation projects. In addition, the bill authorizes a Country Store Alliance Pilot Project to be conducted in Vermont. The bill authorizes $50 million to be appropriated for the period of fiscal years 2006 through 2010.

By Mr. KENNEDY (for himself, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. LEVIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. DORGAN, Mr. SCHUMER, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, and Ms. STABENOW):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it is time for a new effort in Congress to enact the Patients' Bill of Rights. The Senate has approved major bipartisan legislation to end the abuses of managed care and HMOs before, but final enactment of this important measure was blocked by the HMOs and the vested interests of the corporate world that deny working Americans their basic rights and a needed voice in challenging decisions that deny them basic medical care. It was blocked too by an administration that professes to support patients' rights, but does all it can to block legislation to guarantee those rights.

Despite our outstanding researchers and professionals, families across the country are overwhelmingly and justifiably concerned that medical decisions are too often made by insurance industry accountants, and not their doctors. HMO profits too often take priority over patient needs. It is time for Congress to end the abuses of patients and physicians by HMOs and the insurance industry. Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change the facts.

The Patients' Bill of Rights can stop these abuses. For millions of Americans who rely on health insurance to protect them when serious illness strikes, the Patients' Bill of Rights is literally a matter of life and death.

It's important to remember what this debate is really about. It's not about lawyers. It's not about insurance companies. It's about patients—mothers and daughters, fathers and sons, sisters and brothers. It's about families around the country who will someday face the challenge of serious illness and deserve the best in health care—the same care that all members of the Senate want for ourselves and our loved ones. But too many families are denied the care they need and deserve because of abuses by HMOs and other insurance companies.

The legislation we are introducing today will end those abuses. Several of its provisions are especially important—specialty care, clinical trials, and prescription drugs.

In each of these areas, care is too often delayed or denied by insurance companies more interested in profits than patients. Access to specialty care for serious and complex illnesses is a critical element of good health care. Yet denial of needed specialists is one of the most common abuses in the current system.

Patients with cancer and other serious illnesses need specialty care. Often, their best hope for a cure or for precious extra years of life is participation in a clinical trial. But too often, both are lacking. Patients with cancer or other serious illnesses and their physicians must fight HMOs to take advantage of this opportunity.

Traditionally, insurance companies have paid for the routine costs of doctors and hospitals in clinical trials. But HMOs frequently refuse to do so, with devastating effects on patients and research alike. Our legislation will end this abuse.

Another abuse that will be ended by our plan is the denial of medically necessary drugs not on an HMO plan's list. One group that suffers from this denial is the mentally ill. Some of the most dramatic advances in medicine in recent years have been the development of effective drugs to treat persons with serious mental illness. Too often, however, they're told to settle for older, cheaper, less effective drugs with harmful side effects, because an HMO refuses to pay for the best standard of care.

Our legislation guarantees that patients can get medically necessary drugs, even if they are not on the HMO's list. Equally important, our bill guarantees that these drugs will be provided at a cost no greater than the normal cost-sharing for other medications. Access to needed drugs is a concern for every family, particularly when new cures are increasingly based on new drugs today.

The list of abuses goes on and on. People across the country know these abuses are wrong. Managed care practices that cause these tragedies cost lives, and ending these abuses is a matter of simple justice and common decency.

The Patients' Bill of Rights will protect families from insurance company bureaucracies that rob them of their peace of mind, their health, or even their lives. The bill is a guarantee that medical decisions will be made by doctors and patients, not managed care accountants. It is actively supported by doctors, nurses, patients, small businesses, religious organizations, and working families. The support is impressive in its breadth, its depth and its diversity.

It is time to guarantee these basic rights for patients. It is time for Congress to pass this bill. Every doctor knows it. Every nurse knows it. Every patient knows it. And every Senator knows it too.

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. 1012

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Patients' Bill of Rights Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

SUBTITLE A—UTILIZATION REVIEW; CLAIMS; AND INTERNAL AND EXTERNAL APPEALS

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.
Sec. 105. Health Care Consumer Assistance Fund.

SUBTITLE B—ACCESS TO CARE

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

SUBTITLE C—ACCESS TO INFORMATION
Sec. 121. Patient access to information.
SUBTITLE D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP
Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.
SUBTITLE E—DEFINITIONS
Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Treatment of excepted benefits.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.
Sec. 157. Preservation of protections.
TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT
Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
Sec. 203. Cooperation between Federal and State authorities.
TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS
Sec. 301. Application of patient protection standards to Federal health insurance programs.
TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
Sec. 401. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 402. Availability of civil remedies.
Sec. 403. Cooperation between Federal and State authorities.
TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986
SUBTITLE A—APPLICATION OF PATIENT PROTECTION PROVISIONS
Sec. 501. Application to group health plans under the Internal Revenue Code of 1986.
Sec. 502. Conforming enforcement for women's health and cancer rights.
SUBTITLE B—HEALTH CARE COVERAGE ACCESS TAX INCENTIVES
Sec. 511. Credit for health insurance expenses of small businesses.
Sec. 512. Certain grants by private foundations to qualified health benefit purchasing coalitions.
Sec. 513. State grant program for market innovation.
Sec. 514. Grant program to facilitate health benefits information for small employers.
Sec. 515. State grant program for market innovation.
TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION
Sec. 601. Effective dates.
Sec. 602. Coordination in implementation.
Sec. 603. Severability.
TITLE VII—MISCELLANEOUS PROVISIONS
Sec. 701. No impact on Social Security Trust Fund.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claim for such benefits without regard to whether and when a written confirmation of such request is made.

(b) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term ''treating health care professional'' means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in this paragraph or paragraph (4), a group health plan, and a health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty;

with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such a review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted

under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided*, That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by, the definition used by the plan or issuer of ''medically necessary and appropriate'', or ''experimental or investigational'', or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical

exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such clause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ''practicing'' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term ''related party'' means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ''qualified external review entity'' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 601, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a fund, to be known as the ''Health Care Consumer Assistance Fund'', to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has

the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician pathology services) only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'', with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ''emergency ambulance services'' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ''specialist'' means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, and a health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan and a health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by

a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term ''continuing care patient'' means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term ''contract'' includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' or ''provider'' means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term ''serious and complex condition'' means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (and health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan and a health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, including a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant;

(iii) either of the following if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Patients' Bill of Rights Act of 2005 (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1852(j)(4) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1852(j)(4) of the Social Security Act to the Secretary, a MedicareAdvantage organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term ''terms and conditions'' includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term ''patient protection requirement'' means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms ''substantially compliant'', substantially complies'', or ''substantial compliance'' with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved with respect to the patient protection involved.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.

(2) Section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974.

(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTION.—Subsection (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement—

(1) is entered into knowingly and voluntarily by the parties involved after the dispute has arisen; or

(2) is pursuant to the terms of a collective bargaining agreement.

Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

''SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I and under the amendments made by title IV to participants and beneficiaries under group health plans.

(b) CONFORMING FEDERAL HEALTH INSURANCE PROGRAMS.—It is the sense of Congress that the President should require, by executive order, the Federal official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in subsection (a) with respect to such program.

(c) GAO REPORT ON ADDITIONAL STEPS REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) FEDERAL HEALTH INSURANCE PROGRAM.—In this section, the term ''Federal health insurance program'' means a Federal program that provides creditable coverage (as defined in section 2701(c)(1) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act of 2005 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section 111 (relating to consumer choice option).

''(B) Section 112 (relating to choice of health care professional).

''(C) Section 113 (relating to access to emergency care).

''(D) Section 114 (relating to timely access to specialists).

''(E) Section 115 (relating to patient access to obstetrical and gynecological care).

''(F) Section 116 (relating to access to pediatric care).

''(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(H) Section 118 (relating to access to needed prescription drugs).

''(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

''(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

''(K) Section 134 (relating to payment of claims).

''(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Patients' Bill of Rights Act of 2005, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Patients' Bill of Rights Act of 2005, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 131 (relating to prohibition of interference with certain medical communications).

''(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 133 (relating to prohibition against improper incentive arrangements).

''(D) Section 135 (relating to protection for patient advocacy).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection in connection with health insurance coverage, any reference in this subsection to a requirement in a section or other provision in the Patients' Bill of Rights Act of 2005 with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

''(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Patients' Bill of Rights Act of 2005, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act of 2005 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Patients' Bill of Rights Act of 2005 with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''Sec. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Patients' Bill of Rights Act of 2005, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''714. Patient protection standards''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b) of the Patients' Bill of Rights Act of 2005, as deemed by subsection (a) of section 714 of this Act to be incorporated into such subsection)'' after ''part 7''.

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

''(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—In any case in which—

''(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Patients' Bill of Rights Act of 2005 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

''(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

''(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

''(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

''(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

''(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

''(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

''(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

''(4) DEFINITIONS AND RELATED RULES.—For purposes of this subsection.—

''(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Patients' Bill of Rights Act of 2005.

''(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Patients' Bill of Rights Act of 2005.

''(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

''(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Patients' Bill of Rights Act of 2005 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

''(C) DIRECT PARTICIPATION.—

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(D) APPLICATION TO CERTAIN PLANS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) (or plan sponsor of such a plan) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

''(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

''(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

''(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

''(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

''(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty (as defined in paragraph (6)(B)(ii)) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS, HEALTH CARE PROFESSIONALS, AND HOSPITALS.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(9) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

''(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief

shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

''(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

''(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

''(10) STATUTORY DAMAGES.—

''(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

''(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

''(11) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

''(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

''(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

''(B) the date as of which the requirements of paragraph (9) are first met.

''(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

''(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

''(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

''(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

''(i) all liability of such employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

''(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or sponsor (or employee) in the action and may not raise any defense that the employer or sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(19) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

''(ii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

''(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

''(A) such designation is in such form as may be prescribed in regulations of the Secretary,

''(B) the designated decisionmaker—

''(i) meets the requirements of paragraph (2),

''(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary,

''(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

''(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make

medically reviewable decisions under the plan with respect to such participant or beneficiary, and

''(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Patients' Bill of Rights Act of 2005.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

''(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

''(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

''(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

''(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

''(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.''.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

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

''(C) for the relief provided for in subsection (n) of this section.''.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

''(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) against the plan, the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity in connection with the plan to recover damages resulting from personal injury or for wrongful death if such cause of action arises by reason of a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

''(C) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Patients' Bill of Rights Act of 2005 were satisfied with respect to the participant or beneficiary:

''(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

''(II) Section 103 of such Act (relating to internal appeals of claims denials).

''(III) Section 104 of such Act (relating to independent external appeals procedures).

''(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

''(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

''(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

''(A) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection do not apply to certain excepted benefits.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Patients' Bill of Rights Act of 2005.

''(D) MANAGED CARE ENTITY.—

''(i) IN GENERAL.—The term 'managed care entity' means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

''(ii) TREATMENT OF TREATING PHYSICIANS, OTHER TREATING HEALTH CARE PROFESSIONALS, AND TREATING HOSPITALS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(n)(6)(B)(i)) of the participant or beneficiary and also does not include a treating hospital insofar as it is acting solely in the capacity of providing treatment or care to the participant or beneficiary. Nothing in the preceding sentence shall be construed to preempt vicarious liability of any plan, plan sponsor, health insurance issuer, or managed care entity.

''(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

''(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

''(C) DIRECT PARTICIPATION.—

''(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because

of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(4) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (D), paragraph (1) shall not apply in connection with any action in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—

''(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Patients' Bill of Rights Act of 2005 regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

''(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

''(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

''(D) FAILURE TO REVIEW.—

''(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A)(i).

''(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A)(ii).

''(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or the pendency of any action with respect to which, under this paragraph, subparagraph (A) does not apply—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

''(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

''(5) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(6) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to any action against a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

''(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005, or

''(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

''(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

''(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

''(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

''(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

''(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability with respect to a participant or beneficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting within the scope of employment), if with respect to the employer or plan sponsor there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(10) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, paragraph (1) shall not apply with respect to a cause of action where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) exclude a cause of action from exemption under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

''(ii) exclude a cause of action from exemption under paragraph (1) relating to quality of care; or

''(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable, by reason of the exemption of a cause of action from preemption under this subsection, for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(12) CHOICE OF LAW.—A cause of action exempted from preemption under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

''(13) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action exemption from preemption under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

''(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

''(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

''(2) superseding any State law permitted under section 152(b)(1)(A) of the Patients' Bill of Rights Act of 2005, or

''(3) affecting any applicable State law with respect to limitations on monetary damages.

''(f) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of any care provided, or any treatment decision made, by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the applicable effective date under section 601.

SEC. 403. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) IN GENERAL.—Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

''SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 734 the following new item:

''Sec. 735. Cooperation between Federal and State authorities''.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patients' bill of rights''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Standard relating to women's health and cancer rights''; and

(2) by inserting after section 9813 the following:

''SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

''The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.''.

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45J. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

''(2) in the case of insurance not described in paragraph (1), 20 percent.

''(c) LIMITATIONS.—

''(1) PER EMPLOYEE DOLLAR LIMITATION.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

''(A) $2,000 in the case of self-only coverage, and

''(B) $5,000 in the case of family coverage. In the case of an employee who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

''(2) PERIOD OF COVERAGE.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

''(d) DEFINITIONS.—For purposes of this section—

''(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(2) NEW HEALTH PLAN.—

''(A) IN GENERAL.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to employees if—

''(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

''(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

''(B) QUALIFIED EMPLOYEE.—

''(i) IN GENERAL.—The term 'qualified employee' means any employee of an employer

if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

''(ii) TREATMENT OF CERTAIN EMPLOYEES.—The term 'employee' shall include a leased employee within the meaning of section 414(n).

''(3) SMALL EMPLOYER.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

''(e) SPECIAL RULES.—

''(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

''(f) TERMINATION.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2014.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) in the case of a small employer (as defined in section 45J(d)(3)), the health insurance credit determined under section 45J(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(e) CREDIT FOR SMALL BUSINESS HEALTH INSURANCE EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45J for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45J(a).

''(2) CONTROLLED GROUPS.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45J. Small business health insurance expenses''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006, for arrangements established after the date of the enactment of this Act.

SEC. 512. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) IN GENERAL.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

''(k) CERTAIN QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

''(2) QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified health benefit purchasing coalition distribution' means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

''(B) EXCLUSIONS.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

''(i) for the purchase of real property,

''(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

''(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

''(3) TERMINATION.—This subsection shall not apply—

''(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2013, and

''(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2014.''.

(b) QUALIFIED HEALTH BENEFIT PURCHASING COALITION.—

(1) IN GENERAL.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

''Subchapter D—Qualified Health Benefit Purchasing Coalition

''Sec. 9841. Qualified health benefit purchasing coalition

''SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

''(a) IN GENERAL.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

''(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

''(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

''(b) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each purchasing coalition under this section shall be governed by a Board of Directors.

''(2) ELECTION.—The Secretary shall establish procedures governing election of such Board.

''(3) MEMBERSHIP.—The Board of Directors shall—

''(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employee representatives of such employers, but

''(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

''(c) MEMBERSHIP OF COALITION.—

''(1) IN GENERAL.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

''(2) OTHER MEMBERS.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

''(3) VOTING.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

''(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

''(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employees and retirees of such employers,

''(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

''(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

''(4) serve a significant geographical area and market to all eligible members in that area, and

''(5) carry out other functions provided for under this section.

''(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

''(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

''(2) assume insurance or financial risk in relation to any health plan, or

''(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

''(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

''(g) RELATION TO OTHER LAWS.—

''(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

''(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

''(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

''(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

''SUBCHAPTER D—QUALIFIED HEALTH BENEFIT PURCHASING COALITION''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2006.

SEC. 513. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred

to as the ''Secretary'') shall establish a program (in this section referred to as the ''program'') to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

SEC. 514. GRANT PROGRAM TO FACILITATE HEALTH BENEFITS INFORMATION FOR SMALL EMPLOYERS.

(a) IN GENERAL.—The Small Business Administration shall award grants to 1 or more States, local governments, and non-profit organizations for the purposes of—

(1) demonstrating new and effective ways to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover of employees,

(2) making employers aware of their current rights in the marketplace under State and Federal health insurance reforms, and

(3) making employers aware of the tax treatment of insurance premiums.

(b) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 for each of the first 5 fiscal years beginning after the date of the enactment of this Act for grants under subsection (a).

SEC. 515. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program (in this section referred to as the ''program'') to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2006 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a

termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to an individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mr. NELSON of Florida, and Mr. KENNEDY):

S. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Homeland Security FORWARD Funding Act of 2005. I am pleased to be joined by my colleague from Texas, Senator JOHN CORNYN, as well as Senators LAUTENBERG, HUTCHISON, BOXER, CORZINE, SCHUMER, CLINTON and Senator NELSON of Florida.

It is time that Congress ensures that funding to bolster the security of our nation goes to where the threat is the greatest.

Unfortunately, billions of dollars in homeland security funds to states and local communities—including $3.6 billion in fiscal year 2005—are now being distributed to areas that are not at the greatest risk of terrorist attack.

To do this, we need to adopt risk-based analysis to determine where our homeland security funding goes, rather than continue with the present system of ad hoc determinations, ''small-state minimums'' and poorly understood decision-making, that leave some targets exposed to threats while sending resources to places where there is little chance of terrorist attack.

This legislation will ensure that priorities are set according to analysis of risk and threat. Specifically it directs the Secretary of Homeland Security to allocate funding to homeland security grants based on risk analysis.

This is the core of the bill, and I believe it is so important that I will quote in full the operative language, which appears in the very first substantive section of the legislation: ''The Secretary shall ensure that homeland security grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable.''

This direction covers the four major first-responder grant programs administered by Department of Homeland Security in addition to grants for seaport and airport security—called ''covered grants'' in the bill, including: 1. the State Homeland Security Grant Program; 2. the Urban Area Security Initiative; 3. the Law Enforcement Terrorism Prevention Program; and 4. the Citizens Corps Program.

Reduces the ''small state minimum'' to 25 percent per State. Current practice requires each state to get .75 percent of much of the grant funding. That means 37.5 percent of the funds are marked for distribution before any risk analysis.

Requires grants be designed to meet ''essential capabilities.'' Essential capabilities are what we get for the money spent—the ability to address the risk by reducing vulnerability to attack and by diminishing the consequences of such an attack by effective response.

Ensures that States quickly and effectively pass on Federal funds to where they are needed so that Federal funds are not held back.

The bottom line is this: if Federal funds are going to be distributed to improve our national ability to ''prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks,'' those funds should be distributed in accordance with a risk-based analysis.

In this post-Cold War world of asymmetric threat there are two fundamental principles we should apply to efforts to make our nation more secure against a terrorist attack: the first is that understanding and predicting what terrorists will do requires risk analysis.

It is an uncomfortable fact that, even with the best intelligence, we will never know exactly how, when and where terrorists will strike—the best we can do is try to assess risks and threats, and make predictions.

The second principle is that our defense resources are finite.

The total amount of money, time and personnel that can be devoted to homeland security is limited. That means tough choices have to be made by both the Congress, and by Executive Branch officials at the Federal, State and Local level.

Together these two principles define what we need to do for our Nation: accurately assess the risks of an array of possible terrorist attacks; measure the vulnerability of all of these possible targets, and then allocate our resources based on that assessment.

Three years ago, we created the Department of Homeland Security in an

effort to create an institution that could perform this task.

The core element of the new Department was to be the Information Assessment and Infrastructure Protection Directorate, which would ''merge under one roof the capability to identify and assess current and future threats to the homeland, map those threats against our vulnerabilities, issue timely warnings and take preventive and protective action.''

We are failing in this effort.

The 9/11 Commission agreed, finding that ''nothing has been harder for officials—executive or legislative than to set priorities, making hard choices in allocating limited resources.''

The Commission concluded, ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.''

This bill does just that.

The New York Times, an editorial published last month, titled ''Real Security, or Politics as Usual?'' agreed:

> Any terrorist who has followed how domestic security money is distributed in this country must be encouraged by the government's ineptness . . . The current formula is based in part on population, rather than risk, and contains state minimums, so even sparsely populated states that hardly have a plausible terrorism target are raking in money. This is the formula that gave Wyoming seven times more domestic security money per capita than New York . . . If there were a successful attack on Wall Street or the ports of Los Angeles and Long Beach, it would be a blow to the whole nation. Defending places where the terrorist threat is greatest is not parochialism; it is defending America.

Despite these recommendations, we find again and again that scarce resources are allocated based on factors unrelated to real security.

For instance, Congress has established a ''small State minimum'' designed to ensure that every State gets a substantial portion of scarce resources, regardless of the measure of risk or vulnerability.

As a result, in fiscal year 2004 Wyoming spent $37.52 per capita with homeland security grants, while California and Texas spent $8.75 and $6.93 respectively.

The problem is not just in Congress. For example, a recent Department of Homeland Security Inspector General's report found that in the critical area of port security, grants are ''not well coordinated with the Information Analysis and Infrastructure Protection.''

The result is the ''funding of projects with low [risk and vulnerability] scores.''

A recently issued report from the Center for Security Studies and the Heritage Foundation found that there is:

> no funding formula that is based on risk analysis and divorced from politics . . . [w]ith only limited resources available to achieve the almost limitless goal of protecting the entire United States . . . it is critical that we set priorities.

This bill is a first step to reducing threats of terrorist attack, but Congress can not do it alone.

The Department of Homeland Security must embrace not only the concept of risk-based allocation, but also the practical aspects of the discipline. That means improving the intelligence analysis and vulnerability assessment functions of the Department.

We also need to follow through on last year's intelligence reform efforts, since the product of the Intelligence Community—analysis of the plans, intentions and capabilities of terrorist groups—is the key element in an effective risk analysis.

This will not be easy. There are lots of vested interests who will oppose such efforts. But our nation's safety is at sake. It is time to put aside pork-barrel politics and a Cold War mentality and get to work.

Last year Representatives COX and TURNER, the Chair and Ranking Member, respectively, of the other body's Homeland Security Committee put forth similar legislation.

That effort passed the House of Representatives as part of the Intelligence Reform Bill, but was dropped at conference—that bill has been reintroduced, and is scheduled for consideration on the floor of the House this week.

This bill is based on Chairman COX'S efforts, and with a few exceptions tracks it closely.

However, unlike the House bill, this bill makes an across-the-board reduction of the small-State minimum to .25 percent—the House bill retains a sliding scale that I believe will have the effect of undercutting its risk-based approach.

In this body, Senators COLLINS and LIEBERMAN have been working to craft risk-based legislation, which was recently reported favorably by the Senate Homeland Security Committee.

I hope that the bill introduced today will be accepted by Senators COLLINS and LIEBERMAN in the spirit in which it was drafted—as a reasoned alternative to their approach, and as a starting point for further discussions.

It is my hope that Congress will act quickly to pass this legislation. We cannot afford to wait until it is too late.

Mr. CORNYN. Mr. President, I rise today to join with my colleague, Senator DIANNE FEINSTEIN of California and other of our distinguished colleagues in introducing The Homeland Security FORWARD Funding Act of 2005.

I would like to thank Senator FEINSTEIN for her collaboration in crafting this legislation. I know that she has thoughtfully examined the current state of our Homeland Security Funding and the many other interrelated issues, and I thank her for her fine leadership as we work together exploring ways to better protect our country.

We say it often, and it is true: ''9/11 changed everything.'' The attacks of that day were unprecedented in our history, and they brought with them the need for similarly unprecedented security measures. In an effort to respond quickly to the devastation that was wrought upon our country, the Federal Government created a system that worked to raise overall national emergency preparedness to ensure we could better guard against another such terrorist attack.

And so we embarked on the task of shoring up our airline, transportation, border, and port security. We worked to protect our critical infrastructure, to protect our cyber security, our agriculture and food supply systems.

But taxpayer dollars are not limitless, and Congress must work to ensure every penny be directed where it will do the most good. It is imperative that we guard the places across our nation where terrorists may strike and where such strikes could do the most damage to our people, our government, and our national economy. We believe this is the most responsible way to prepare for any future terrorist attack.

We need to have a system that will protect our most vulnerable population centers, and that recognizes the need to protect the critical infrastructure and vital components of our national economy. I am reminded of a recent tour I took of several Texas seaports. I visited with port directors, industry leaders, and emergency responders in and around the ports of Houston, Beaumont, and Corpus Christi. They have enormous security needs and the consequences of a terrorist attack on any of these facilities would be devastating, not only to the local communities, but to the economic engine of the whole country.

The legislation that Senator FEINSTEIN and I now propose would require that Federal Homeland Security funds be allocated to states according to a risk-based assessment. It is vital that we better allocate our limited resources to the vulnerable places in the country we most need to protect, and that that these funds are distributed in an efficient and timely manner.

Senator FEINSTEIN and I have evaluated the 9/11 Commission recommendations that call for allocation of money based on vulnerabilities, and our legislation provides for a distribution formula for homeland security grants based on three main criteria: Threat, vulnerability, and consequence. This would require states to quickly pass on federal funds to where they are most needed. This bill is inspired by the hard work and examination done on this issue by our colleagues in the House and Senate. We have also taken input from stakeholders in our respective States and from across the country. It is our hope and intention that by introducing this bill we can contribute and enrich the public discourse on this critical issue and help move the Nation toward a more rational and effective distribution of our homeland security resources.

Key provisions of this bill include: establishing a First Responder Grant Board, consisting of Department of

Homeland Security leadership, that will rank and prioritize grant applications based on threat and vulnerability. Enabling a region that encompasses more than one State to apply for funds. The money would still pass through the States, but would go to the region to better enable coordination and planning. Provides greater flexibility in using the funds, allowing a State to use them for other hazards consistent with federally established capability standards. And it allows States to retain authority to administer grant programs, but there are penalties for States that do not pass funds to local governments within 45 days, and if a State fails to pass the funds through, local governments may petition the Department of Homeland Security to receive the funds directly.

Continuing to spread Homeland Security funds throughout the Nation irrespective of the actual risk to particular States and communities would be to ignore much of what we have learned as part of our effort to assess our vulnerabilities since the attacks of September 11. So I would urge that we swiftly work to pass this legislation, to better ensure the safety of our citizens.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to offer the Supporting Our Patriotic Businesses Act. This bill addresses some key concerns I have regarding the impact that military call-ups have on our Nation's small businesses.

Today, I am offering my legislation in conjunction with the release of a Congressional Budget Office Report entitled ''The Impact of Reserve Call-ups on Civilian Employers.'' I commissioned the Report a year and a half ago, because I believed then, as I do now, that our country is not doing enough for the patriotic small businesses that are owned by or employ our Guard and Reserve members; and which are negatively effected when these workers are called up in defense of our Nation.

Although I am still analyzing the Report, three key findings immediately caught my attention. For instance, the Report concludes that: 1. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, twenty-six percent work for large businesses, thirty-six percent work for the government, Federal, State, or local, and the remainder work for non-profit organizations. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. 2. Over the past decade, the military has dramatically increased its reliance on Guard and Reserve forces. This trend has accelerated since the terrorism attacks of September 11, 2001. Guard and Reserve members make up about thirty-three percent of deployed service members supporting operations in Iraq and Afghanistan. 3. I am particularly troubled by a third finding which confirms what I have feared all along—that the self-employed, and the small businesses that employ Guard and Reserve members, may be ''paying'' a disproportionate and unfair share of the burden of increased Guard and Reserve member call-ups. The burden is further magnified when it is the small business owner, or a key employee, who is deployed.

As members of this institution charged with the duty of preserving the public trust, we should work together, on a bipartisan basis, to help diminish the unfair burden these employers and self-employed businesses shoulder.

It is difficult enough to leave friends and family behind and enter harm's way, but asking our military personnel to also jeopardize their livelihood is unconscionable. By assisting these businesses and the self-employed, we are helping to diminish important concerns of our military personnel, improving their morale and positively affecting retention.

The legislation that I offer today contains multiple provisions in support of self-employed Guard and Reserve members and the patriotic businesses that employ Guard and Reserve members.

First, it authorizes increased appropriations for the Small Business Administration's (SBA) Office of Veteran Business Development, which offers vital services to our Nation's small businesses that are owned or employ our veterans. For instance, the office has prepared and distributed pre- and post-mobilization packets for small businesses, offers loans, and provides targeted business advice to meet the needs of our veterans and small businesses.

My bill permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs, which has served as an invaluable independent source of advice and policy on veterans' business issues.

My legislation provides that a service member does not need to satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

I have also included a provision which amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the length of time that their owners are called up in defense of our Nation. Currently, small business owners who are called up to active duty in the Guard or Reserve are effectively penalized for serving because their active duty time is counted against the time limitations on participation of the Small Business Administration's programs.

Finally, my bill requires that the Department of Defense take measures to counsel Guard and Reserve members concerning the importance of notifying their employers in a timely manner after they receive Orders that they will be called up to active duty. The legislation further requires that the DoD investigate ways to diminish the lag between the time when military personnel are notified of their call-up and the time that military personnel notify their employers.

Enacting this legislation is an important first step in the right direction toward assisting the brave men and women who serve in our Guard and Reserve and the businesses that employ them. However, I realize that this legislation is merely one of many steps that can and should be taken to this end and welcome new ideas to help this constituency.

I encourage my colleagues to join me in supporting this bill, and to continue to work with me, as well as veterans, policymakers, businesses, and others, to find additional solutions to address these vital issues.

I ask unanimous consent that the text of the bill and that a section-by-section summary of the bill be printed in the RECORD.

Thank you for allowing me the opportunity to discuss this pressing matter.

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

S. 1014

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 ''Supporting Our Patriotic Businesses Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) From September 2001 through November 2004, approximately 410,000 members of the reserve components of the Armed Forces, including the National Guard and Reserves, have been mobilized in support of United States military operations.

(2) According to 2004 data from the Manpower Data Center of the Department of Defense, an estimated 35 percent of Guard members and Reservists are either self-employed or own or are employed by a small business.

(3) The majority of privately employed National Guard and Reserve members either work for a small business or are self-employed.

(4) As a result of activations, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end.

(5) The effects have been devastating to such patriotic small businesses.

(6) The Office of Veterans Business Development of the Small Business Administration has made a concerted effort to reach out to small businesses affected by deployments, but given the sheer numbers of those deployed, their resources have been stretched thin.

(7) In addition, the Office of Veterans Business Development has been required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans.

(8) This Act will help to stem the effects of National Guard and Reservist deployments on small businesses, and better assist veterans and service-disabled veterans with their business needs.

SEC. 3. INCREASED FUNDING FOR THE OFFICE OF VETERANS BUSINESS DEVELOPMENT.

There is authorized to be appropriated to the Office of Veterans Business Development of the Small Business Administration, and to remain available until expended—

(1) $2,000,000 for fiscal year 2006;

(2) $2,100,000 for fiscal year 2007; and

(3) $2,200,000 for fiscal year 2008.

SEC. 4. PERMANENT EXTENSION OF SBA ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.

(a) ASSUMPTION OF DUTIES.—Section 33 of the Small Business Act (15 U.S.C. 657c) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

(b) PERMANENT EXTENSION OF AUTHORITY.—Section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking subsection (h).

SEC. 5. PROFESSIONAL AND OCCUPATIONAL LICENSING.

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended by adding at the end the following new section:

''SEC. 707. CONTINUING EDUCATION REQUIREMENTS FOR PROFESSIONAL AND OCCUPATIONAL LICENSES.

''(a) APPLICABILITY.—This section applies to any servicemember who, after the date of enactment of this section, is ordered to active duty (other than for training) pursuant to section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title, during a period when members are on active duty pursuant to any such section.

''(b) CONTINUING EDUCATION REQUIREMENTS.—A servicemember described in subsection (a) may not be required to complete the satisfaction of any continuing education requirements imposed with respect to the profession or occupation of the servicemember that accrue during the period of active duty of the servicemember as described in that subsection—

''(1) during such period of active duty; and

''(2) during the 120-day period beginning on the date of the release of the servicemember from such period of active duty.

''(c) ACTIVE DUTY DEFINED.—In this section, the term 'active duty' has the meaning given that term in section 101(d) of title 10, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding at the end the following new item:

''Sec. 707. Continuing education requirements for professional and occupational licenses.''.

SEC. 6. RELIEF FROM TIME LIMITATIONS FOR VETERAN-OWNED SMALL BUSINESSES.

Section 3(q) of the Small Business Act (15 U.S.C. 632(q)) is amended by adding at the end the following:

''(5) RELIEF FROM TIME LIMITATIONS.—

''(A) IN GENERAL.—Any time limitation on any qualification, certification, or period of participation imposed under this Act on any program available to small business concerns shall be extended for a small business concern that—

''(i) is owned and controlled by—

''(I) a veteran who was called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States, on or after September 11, 2001; or

''(II) a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active miliary, naval, or air service during a period of active duty pursuant to a call or order to active duty under a provision of law referred to in subclause (I) on or after September 11, 2001; and

''(ii) was subject to the time limitation during such period of active duty.

''(B) DURATION.—Upon submission of proper documentation to the Administrator, the extension of a time limitation under subparagraph (A) shall be equal to the period of time that such veteran who owned or controlled such a concern was on active duty as described in that subparagraph.''.

SEC. 7. COUNSELING OF MEMBERS OF THE NATIONAL GUARD AND RESERVES ON NOTIFICATION OF EMPLOYERS REGARDING MOBILIZATION.

(a) COUNSELING REQUIRED.—The Secretary of each military department shall provide each member of a reserve component of the Armed Forces under the jurisdiction of the Secretary who is on active duty for a period of more than 30 days, or on the reserve active-status list, counseling on the importance of notifying such member's employer on a timely basis of any call or order of such member to active duty other than for training.

(b) FREQUENCY OF COUNSELING.—Each member of the Armed Forces described in subsection (a) shall be provided the counseling required by that subsection not less often than once each year.

SEC. 8. STUDY ON OPTIONS FOR IMPROVING TIMELY NOTICE OF EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVES REGARDING MOBILIZATION.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study of the feasibility and advisability of various options for improving the time in which employers of members of the reserve components of the Armed Forces are notified of the call or order of such members to active duty other than for training.

(2) PURPOSE.—The purpose of the study under paragraph (1) shall be to identify mechanisms, if any, for eliminating or reducing the time between—

(A) the date of the call or order of members of the reserve components of the Armed Forces to active duty; and

(B) the date on which employers of such members are notified of the call or order of such members to active duty.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a). The report shall include—

(1) a description of the study, including the options addressed under the study; and

(2) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the results of the study.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services and Small Business and Entrepreneurship of the Senate; and

(2) the Committees on Armed Services and Small Business of the House of Representatives.

Background: From September 2001 through November 2004, approximately 410,000 National Guard and Reserve personnel have been mobilized in support of current operations. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, 26 percent work for large businesses, 36 percent work for the government, Federal, State, or local, and the remainder work for non-profits. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. As a result of call-ups, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end. The effects have been devastating to these patriotic small businesses.

This Act will help stem the effects of Guard and Reservist call-ups on small businesses and better assist veterans and service-disabled veterans with their business needs.

Section 1.—Title, ''The Supporting Our Patriotic Businesses Act.''

Section 2.—Findings

Section 3.—Authorizes increased appropriations for the Small Business Administration's (SBA) Office of Veteran Business Development to $2 million for Fiscal Year 2006, $2.1 million for Fiscal Year 2007 and $2.2 million for Fiscal Year 2008.

Reasoning: The SBA's Office of Veteran Business Development has made a concerted effort to reach out to small businesses affected by military deployments, but given the sheer number of those deployed, their resources have been stretched thin. In addition, the Office of Veterans Business Development is now required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans. This provision will allow the SBA's Office of Veterans Business Development to better assist our nation's veterans and provide them the business services they need.

Section 4.—Permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs.

Reasoning: The SBA's Advisory Committee on Veterans Business Affairs has served as a valuable independent source of advice and policy on veterans business issues to: the SBA Administrator; the SBA's Associate Administrator for Veterans Business Development; the Congress; the President; and other U.S. policymakers. The Advisory Committee was commissioned under P.L. 106–50 and is set to terminate its duties on September 20, 2006. This provision will help ensure that the Advisory Committee's vital duties, and the information it provides, are continued.

Section 5.—Provides that a service member need not satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

Reasoning: Many Guard and Reserve personnel have continuing education requirements that they are unable to satisfy because of being called to active duty. These patriotic individuals should not have to satisfy these continuing education requirements. NOTE: This provision is a floor, not a ceiling. It should not discourage State or other entities from offering extended benefits/breaks to deployed Guard and Reserve members.

Section 6.—Amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the duration of their owners' active duty service after September 11, 2001.

Reasoning: Some of the SBA's contracting and business development programs have defined time limits for participation. If the firm's time for participation expires prematurely, then competitive opportunities, investments, and jobs become lost. Currently, small business owners who get called up to active duty in the National Guard or Reserve are effectively penalized because their active duty time is counted against the time limitations on participation in the SBA's programs.

Section 7.—Requires that the Secretary of each military department ensure that counseling is provided, at least once a year, to members of the National Guard and Reserves on the importance of notifying their employers regarding their mobilization.

Reasoning: Employers often receive little warning of a guard or reservist's call-up. A survey published by the DoD in November 2003 (DMDC Report No. 2003–10), which questioned guard and reservists who had been called up over the previous 24 months, indicated that they notified their civilian employers an average of 13 days before their call-up began. The survey also showed that almost 60 percent of Guard and Reservists gave their employers advance notice of one week or less. Unfortunately, providing short notice to employers does not allow them time to adequately plan for a guard member or Reservist's absence, and ultimately hurts a business's bottom line. It is important that employers have ample time to make the adjustments necessary to sustain their business.

Section 8.—Improves the focus upon notifying employers in a timely manner regarding call-ups.

Reasoning: For the reasons provided under Section 7, this provision would commission a DoD study on ways to improve the timely notice of employers regarding call-ups.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to introduce The Health Care Choice Act of 2005, a bill that would help Americans afford health insurance.

Approximately 45 million Americans lack health insurance. These uninsured Americans face significant hurdles in entering the insurance marketplace, including limited choices of insurers and inflexible benefit options. For most, the high cost of health insurance is the biggest impediment to getting coverage. In fact, nearly two-thirds of the uninsured are the working poor, and they cite the high cost of insurance as the primary barrier to accessing health coverage.

The cost of insurance is often increased by excessive State regulations. These State mandates raise the cost of insurance which, in turn, increases the number of Americans who are priced out of the health insurance market.

The Health Care Choice Act will allow consumers to shop for health insurance the same way they do for other insurance products—online, by mail, over the phone, or in consultation with an insurance agent in their hometown. The Act empowers consumers by giving them the ability to purchase an affordable health insurance policy with a range of options.

Consumers will no longer be limited to picking only those policies that meet their state's regulations and mandated benefits. Instead, they can examine the wide array of insurance policies qualified in one State and offered for sale in multiple states. Consumers can choose the policy that best suits their needs, and their budget, without regard to State boundaries. Individuals looking for basic health insurance coverage can opt for a policy with few benefit mandates, and such a policy will be more affordable. On the other hand, consumers who have an interest in a particular benefit, such as infertility treatments, will be able to purchase a policy which includes that benefit.

The Health Care Choice Act will help the uninsured find affordable health insurance, while also providing every American with more and better health insurance choices. The bill harnesses the power of the marketplace to allow Americans to tailor their insurance choices to their individual needs.

I am grateful to Congressman Shadegg for introducing the Health Care Choice Act in the House today, and I urge my Senate colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1015

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 ''Health Care Choice Act of 2005''.

SEC. 2. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This Act is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-retention groups has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. 4. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

''PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE

''SEC. 2795. DEFINITIONS.

''In this part:

''(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

''(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

''(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

''(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

''(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

''(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

''(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

''(B) to pay other obligations in the normal course of business.

''(7) COVERED LAWS.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

''(A) individual health insurance coverage issued by a health insurance issuer;

''(B) the offer, sale, and issuance of individual health insurance coverage to an individual; and

''(C) the provision to an individual in relation to individual health insurance coverage of—

''(i) health care and insurance related services;

''(ii) management, operations, and investment activities of a health insurance issuer; and

''(iii) loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

''(8) STATE.—The term 'State' means only the 50 States and the District of Columbia.

''(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

''(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

''(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

''(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

''(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

''(E) Refusing to pay claims without conducting a reasonable investigation.

''(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

''(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

''(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

''(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

''(ii) The rating of an insurance policy or reinsurance contract.

''(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

''(iv) Premiums paid on an insurance policy or reinsurance contract.

''(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

''(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

''(vii) The financial condition of an insurer or reinsurer.

''(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

''(ix) The issuance of written evidence of insurance.

''(x) The reinstatement of an insurance policy.

''(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

''(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

''(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

''SEC. 2796. APPLICATION OF LAW.

''(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

''(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

''(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

''(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

''(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

''(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

''(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

''(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

''(D) to comply with a lawful order issued—

''(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

''(ii) in a voluntary dissolution proceeding;

''(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

''(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

''(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; or

''(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9));

''(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

''(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

''(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

'This policy is issued by _____ and is governed by the laws and regulations of the State of _____, and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _____, including coverage of some services or benefits mandated by the law of the State of _____. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _____. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.'.

''(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

''(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

''(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

''(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

''(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

''(B) from raising premium rates for all policy holders within a class based on claims experience;

''(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

''(i) are disclosed to the consumer in the insurance contract;

''(ii) are based on specific wellness activities that are not applicable to all individuals; and

''(iii) are not obtainable by all individuals to whom coverage is offered;

''(D) from reinstating lapsed coverage; or

''(E) from retroactively adjusting the rates charged an individual insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

''(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

''(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, except that a State many not impose any qualification or requirement which discriminates against a nonresident agent or broker.

''(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

''(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

''(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

''(B) written notice of any change in its designation of its primary State; and

''(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

''(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

''(A) a member of the American Academy of Actuaries; or

''(B) a qualified loss reserve specialist.

''(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

''(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

''(2) the solicitation or sale of individual health insurance coverage by, or operation of, a health insurance issuer that is in hazardous financial condition.

''(i) STATE POWERS TO ENFORCE STATE LAWS.—

''(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

''(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

''(j) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

''(k) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

''SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

''A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the primary State does not meet the following requirements:

''(1) The State insurance commissioner must use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

''(2) The State must have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage unless the issuer provides an independent review mechanism functionally equivalent (as determined by the primary State insurance commissioner or official) to that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part.

''SEC. 2798. ENFORCEMENT.

''(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

''(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

''(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

''(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date of the enactment of this Act.

SEC. 5. SEVERABILITY.

If any provision of the Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any other person or circumstance shall not be affected.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. VITTER, Mr. BAUCUS, Ms. MURKOWSKI, Mr. CRAPO, Mr. ENZI, and Mr. CORZINE):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, I rise today to introduce legislation reauthorizing appropriations for the Water Resources Research Act. The Chairman and Ranking Member of the Senate Committee on Environment and Public Works, Senators INHOFE and JEFFORDS, respectively, as well as Senators CLINTON, LAUTENBERG, BAUCUS, MURKOWSKI, CRAPO, ENZI and CORZINE have joined me as original cosponsors of this important legislation to address our nation's water resource concerns.

Originally enacted in 1964, the Water Resources Research Act authorizes the establishment of a nationwide, State-based network of Water Resources Research Institutes. These Institutes represent a partnership among State universities; Federal, State, and local governments; and stakeholders aimed at solving problems of water supply and water quality. They are located at the land-grant universities in each of the 50 States, the territories and the District of Columbia.

The 54 Water Resources Research Institutes are charged with conducting competent research to develop new technologies and more efficient methods for resolving local, State and national water-resources problems; fostering new research scientists into water resources fields; and facilitating water research coordination and the application of research results through information dissemination and technology transfer.

The Institutes provide important support to the States in their long-term water planning, policy development, and management. A significant portion of the Institutes' work is intended to help State and local water managers implement Federal regulations in ways that are tailored to local and State institutions and natural conditions. Water quality regulations, drinking water standards, wastewater treatment, and water reuse programs are examples of areas in which the Institutes provide research and information transfer.

In my own State, the Rhode Island Water Resources Center is located at the University of Rhode Island. The Center's recent activities have included working with the Rhode Island Airport Corporation to develop a plan for mitigating runoff contamination due to deicing and anti-icing operations at T.F.Green Airport. Other work conducted by the Center has encompassed evaluating the scour potential of streams and river banks in the State to study how they may be affected by land use and other changes; developing a statewide public water-supply GIS coverage program; and working with communities to evaluate MTBE drinking water contamination.

In addition to research, the outreach and information transfer activities of the Institutes are highly valued by multi-level stakeholders at the local, State and regional levels. The Institutes are the training grounds for the next generation of the Nation's water scientists, economists and engineers. This nationwide network of water institutes provides an efficient and effective method to meet the diverse water resource needs in different parts of our country.

Another key component of the program is the importance of its small Federal grants for leveraging funding from non-federal sources to identify and address local and State needs for water research. Without this Federal seed money, many institutes would lose a valuable resource and the visibility within their universities and among Federal, State and local water agencies for working on challenging water resource problems. The Federal grants allow immense leverage capacity for conducting water research activities and are the key to maintaining a valuable national network.

The legislation I am introducing today reauthorizes $62 million in funding through fiscal year 2010 for the Nation's Water Resources Research Institutes and $32 million for the Act's Interstate Research Program. I look forward to working with the bill's original cosponsors as well as my colleagues on the Environment and Public

Works Committee to ensure this national network of university-based research institutes continues to support the water resources needs of the Nation.

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. 1017

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 ''Water Resources Research Act Amendments of 2005''.

SEC. 2. WATER RESOURCES RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)) is amended—

(1) in the subsection header, by striking ''**IN GENERAL**'';

(2) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, to remain available until expended—

''(A) $12,000,000 for each of fiscal years 2006 through 2008; and

''(B) $13,000,000 for each of fiscal years 2009 and 2010.''; and

(3) in paragraph (2), by striking ''(2) Any'' and inserting the following:

''(2) FAILURE TO OBLIGATE FUNDS.—Any''.

(b) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) in paragraph (1)—

(A) in the first sentence—

(i) by striking ''There'' and inserting the following:

''(1) IN GENERAL.—There''; and

(ii) by striking ''$3,000,000 for fiscal year 2001, $4,000,000 for fiscal years 2002 and 2003, and $6,000,000 for fiscal years 2004 and 2005'' and inserting ''$6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for each of fiscal years 2009 and 2010'';

(B) in the second sentence, by striking ''Such'' and inserting the following:

''(2) NON-FEDERAL MATCHING FUNDS.—The''; and

(C) in the third sentence, by striking ''Funds'' and inserting the following:

''(3) AVAILABILITY OF FUNDS.—Funds''.

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to alllow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. SARBANES. Mr. President, I am pleased to introduce the Federal Employee Commuter Benefits Act of 2005, which is cosponsored by my colleagues Senators MIKULSKI and WARNER. This bill will guarantee transit benefits to all Federal employees in the National Capital Area and will remove a restriction that currently forbids Federal agencies from providing employee shuttles to and from transit stations. This measure is an important step forward in our efforts to encourage transit ridership and improve the quality of life for federal employees in the Washington, D.C. region and throughout the Nation.

All across the Nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impact, and personal frustration. According to the Texas Transportation Institute, in 2003 Americans in 85 urban areas spent 3.7 billion hours stuck in traffic, with an estimated cost to the nation of $64.8 billion in lost time and wasted fuel. In response, Americans are turning to alternative transportation in record numbers. The American Public Transportation Association estimates that Americans now take over 9 billion trips on transit per year, the highest level in more than 40 years. The Texas Transportation Institute has estimated that without transit, the 85 urban areas they studied would have suffered an additional 1.1 billion hours of delay, a 27 percent increase, which would have added $18 billion to the national cost of congestion.

Transit benefit programs are playing a vital role in increasing transit ridership, which benefits both transit users and drivers. In 1998, the Transportation Equity Act for the 21st Century amended the tax code to allow financial incentives related to commuting costs for both employers and employees. These transit benefits allowed employers to offer a tax-free financial incentive toward the costs of transit commuting, starting at $65 per month and raised in 2005 to $105 per month.

Based upon the findings of the Environmental Protection Agency and the U.S. Department of Transportation, there are clear improvements to congestion, energy efficiency, and air quality from transit benefit programs. According to their findings, an employer with 1,000 employees that participates in a combination of transit benefits, carpool, and telecommuting programs can take credit for taking 175 cars off the road, saving 44,000 gallons of gasoline per year, and cutting global warming pollution by 420 tons per year on average.

In April 2000, an Executive Order was signed requiring all executive branch agencies in the National Capital Region to offer transit benefits to their employees. As a result, Federal employees commuting to Washington, D.C. from Montgomery, Prince George's, and Frederick Counties, Maryland, several counties in Northern Virginia, and as far away as West Virginia, are encouraged to choose transit as their means to get to work.

According to the Washington Metropolitan Area Transit Authority and the U.S. Department of Transportation, more than 150,000 employees—more than one-third of all Federal employees in the National Capital Region—joined the Federal transit benefit program created by the Executive Order. These program participants alone have eliminated an estimated 12,500 single-occupancy vehicles from Washington, D.C. area roads, helping to reduce congestion and improve air quality for our region.

The Executive Order, however, is limited. It does not cover employees in the legislative and judicial branches, for example, or in dozens of independent agencies. While many of the employers in those organizations provide transit benefits to their employees, the implementation and level of benefit is up to the discretion of individual offices. As such, many of these organizations provide limited benefits or do not provide any benefits at all. Guaranteed transit benefits would give these employees more choice in their commuting options and provide an additional incentive to move off our congested roadways and onto public transit.

Of course, such incentives will be ineffective if employees lack access to transit services. In my own state of Maryland, the United States Food and Drug Administration planned to use its own resources to provide a shuttle service for its employees from its new White Oak facility to an area Metro station. When they investigated providing this service, FDA officials found that the current law does not allow federal agencies to use their own vehicles to shuttle employees to mass transit stations.

The potential impact of this restriction on regional congestion is not insignificant. By the middle of this year, FDA expects to have 1,850 employees located at the new White Oak facility, and plans have been made to eventually house more than 7,000 FDA researchers and administrators at the new facility. The lack of access from FDA's new campus to a transit station represents a lost opportunity for reducing congestion, improving our environment and elevating the quality of life for employees.

This type of lost opportunity occurs across the nation. Nationally, the Federal Government employs more than 2.6 million civilian workers at more than 3,000 Federal Government office buildings. At Federal offices throughout the country, transit use is often limited as a commuting option due to lack of employee access to a transit station or a bus stop.

The Federal Employee Commuter Benefits Act would address both of these issues faced by Federal employees. First, the bill would put into law the Executive Order's requirement that transit pass benefits be made available to all qualified Federal employees in the National Capital Region. The bill also extends the requirement beyond executive branch agencies to include the legislative and judicial branches and the independent agencies, providing guaranteed transit benefits to thousands of additional federal employees in the Washington, DC region.

Second, the Federal Employee Commuter Benefits Act would remove the restriction that prohibits a Federal agency from operating a shuttle service to a public transit facility. With this legislation, any Federal agency, anywhere in the United States, can choose to provide a transit shuttle service for their employees. By providing access to commuting alternatives, Federal agencies will be able to provide a benefit to their employees that can make getting to work easier, more affordable, and more employee-friendly. It will also provide an opportunity to help reduce congestion and improve air quality across the Nation.

Since 1982, the U.S. population has grown 20 percent, but the time spent by commuters in traffic has grown by over 200 percent. Each year, traffic congestion wastes nine billion gallons of fuel. By encouraging federal employees to look to transit and by providing access to transit stations, we can help reduce congestion, improve the environment, and promote an improved quality of life.

I am introducing the Federal Employee Commuter Benefits Act because of the opportunities it will give federal agencies to support public transportation, both by providing employee access to transit facilities across the nation, and by providing transit benefits to federal employees in the Washington, D.C. region. Both of these improvements will aid our efforts to fight congestion and pollution by encouraging the use of transportation alternatives. This legislation is strongly supported by federal employees, transit providers, and local elected officials, and I ask unanimous consent that the text of the bill, along with letters of support, be printed in the RECORD. I encourage my colleagues to join me in supporting the Federal Employee Commuter Benefits Act.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1018

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 ''Federal Employee Commuter Benefits Act of 2005''.

SEC. 2. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in subsection (b).

(b) BENEFITS DESCRIBED.—The benefits described in this subsection are the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are required to be offered by Federal agencies in the National Capital Region on the date of enactment of this Act.

(c) DEFINITIONS.—In this section—

(1) the term ''covered agency'' means any agency, to the extent of its facilities in the National Capital Region;

(2) the term ''agency'' means any agency (as defined by 7905(a)(2) of title 5, United States Code), the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(3) the term ''National Capital Region'' includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(4) the term ''Executive Order 13150'' refers to Executive Order 13150 (5 U.S.C. 7905 note);

(5) the term ''Federal agency'' is used in the same way as under section 2 of Executive Order 13150; and

(6) any determination as to whether or not one is a ''qualified Federal employee'' shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to require that a covered agency—

(1) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in subsection (a)) any program or benefits permitted or required under any other provision of law; or

(2) discontinue (on or after the effective date referred to in subsection (a)) any program or benefits referred to in paragraph (1), so long as such program or benefits satisfy the requirements of subsections (a) through (c).

SEC. 3. AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.

(a) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(b) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(c) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by subsection (a)) shall be in addition to any authority otherwise available to the agency involved.

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 12, AFL–CIO,

May 11, 2005.

Hon. PAUL SARBANES
U.S. Senate, Washington, DC.
Subject: H.R. 1283

DEAR SENATOR SARBANES: The American Federation of Government Employees (AFGE) Local 12 represents 3,600 employees at the U.S. Department of Labor in the Washington D.C. metropolitan area.

We appreciate very much all the work you have done on behalf of Federal employees, in particular your work to assist our local in our three year battle to have the monthly transit subsidy raised to $100.

We respectfully request that you sponsor and introduce in the Senate a companion bill to H.R. 1283. The purpose of H.R. 1283 is ''To provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.''

H.R. 1283 was introduced by Congressman Jim Moran and is co-sponsored by Representatives Eleanor Holmes Norton, Albert Wynn, Chris Van Hollen, Steny Hoyer, Frank Wolf, and Earl Blurnenauer. It has been referred to the House Government Reform Committee.

Passage into law of this legislation would not only help employees at any Federal agency in this area where management has decided, for whatever reason, not to offer the tax-free maximum transit subsidy. It would also benefit the region generally by giving more Federal employees the incentive to use mass transit, thus helping to lessen traffic congestion and air pollution.

The membership of AFGE Local 12 passed a resolution on May 5 of this year in support of this kind of legislation. A copy of the resolution is attached.

Thank you very much for your consideration of this serious matter.

Respectfully yours,

LAWRENCE C. DRAKE, Jr.
President.

Approved by the membership of AFGE Local 12 on May 5, 2005

RESOLUTION ON TRANSIT SUBSIDY LEGISLATION

Whereas: Using mass transit is one of the most cost-effective, environmentally sound, and energy efficient ways for Federal employees to commute to their workplaces;

Executive Order 13150 ordered transit subsidies, now valued at a maximum of $105 a

month, to be made available to all executive branch employees;

Pursuant to Executive Order 13150, the number of executive branch employees utilizing transit subsidies grew from 55,000 to 155,000 participants, reducing highway vehicle miles commuted by over 40 million;

The Washington DC metropolitan area's traffic congestion is overall the country's third worst and is worse than any other metropolitan area outside California;

As the region's largest employer, the Federal government has the capacity and the moral duty to significantly reduce road overcrowding and its consequent pollution by providing appropriate transit benefits to encourage more widespread mass transit use;

Legislation codifying transit benefits for Federal employees in the Washington DC metropolitan area and repealing restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers, unanimously approved by the House Government Reform Committee in the previous Congress, has been re-introduced as H.R. 1283 by Rep. Jim Moran and six co-sponsors; and

Codifying these benefits would remedy Executive Order 13150's lack of legal recourse against agencies willfully ignoring its requirements;

Therefore be it resolved that:

American Federation of Government Employees Local 12 endorses legislation such as H.R. 1283 which codifies Executive Order 13150 and repeals restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers; and

AFGE 12 likewise urges other organizational entities with which it is affiliated in the American Federation of Government Employees and the AFL–CIO to actively seek enactment of such legislation.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
May 11, 2005.

Hon. PAUL S. SARBANES,
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to express strong support for legislation you are proposing that would expand the use of transit-related commuter tax benefits in the Washington, DC region. This legislation will help promote the use of public transportation and thereby support regional efforts to reduce traffic congestion in the National Capital area. We note that a recent report by the Texas Transportation Institute (TTI) cited the Washington, DC metropolitan area as the third most congested in the nation.

As we understand it, your legislation would codify language currently in an executive order that requires federal executive branch agencies to offer to their employees transit benefits equal to employee commuting costs, currently up to $105 per month. The legislation would also expand the eligibility of these benefits to legislative and judicial branch employees in the National Capital area.

We believe that it is important that the federal government support the use of public transportation in its efforts to reduce congestion, minimize auto pollution, and make the best use of existing public transportation facilities that are built with a substantial federal investment. APTA has been a longtime proponent of providing federal tax incentives that promote public transportation at no less a level than those provided for parking.

We thank you for your leadership on this issue. If you have questions, please have your staff contact Rob Healy of APTA's Government Affairs Department at (202) 496–4811 or e-mail rhealy@apta.com. We look forward to working with you to see this important legislation enacted into law.

Sincerely yours,

WILLIAM W. MILLAR,
President.

METRO,
April 15, 2005.

Hon. PAUL S. SARBANES,
U. S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am pleased to offer the Washington Metropolitan Area Transit Authority's (WMATA) endorsement of the legislation you are proposing concerning federal employee commuter benefits. This legislation is very important in supporting regional efforts to use every feasible technique to reduce the severe traffic congestion in the National Capital Region.

The recently released Texas Transportation Institute (TTI) report on congestion cites the metropolitan Washington region as the third most congested in the nation, despite intense transit use by commuters in this area.

The TTI report cites a number of strategies that help to reduce congestion and the cost of delay to the residents of the region. For the Washington metropolitan area, the TTI report indicates that transit services currently save the metropolitan area more than $1 billion annually in delay costs and over 52 percent of current delay time. The metropolitan Washington region is fifth in the nation in terms of the hours of delay saved because of the public transportation network. The TTI report demonstrates the positive effects of transit services on reducing traffic congestion in the Washington metropolitan area. With the unrelentless traffic in this region, it is critical that transit ridership continues to grow to relieve road congestion.

It's essential that the federal government as the region's largest employer, employing more than 374,000 people in this area, give employees every incentive to take transit. The tremendously successful transit benefits program, known in this area as Metrochek, is currently required to be offered to civilian and military employees of the Executive Branch and voluntarily provided by the U.S. House and Senate and several independent agencies. Since the imposition of Executive Order 13150 on October 1, 2000, the number of federal employees receiving transit benefits has increased 166 percent, from 57,000 to 151,800 and 47 percent of Metrorail's peak period riders are federal employees—up from 35 percent in the mid 1980s.

Your proposal will codify the federal employees transit benefit and expand its eligibility to judicial, legislative and independent agency employees in the National Capital Region. While some of these agencies already participate in the Metrochek program, this legislation ensures that participation will be uniform across all three branches of the federal government.

WMATA also supports the proposal to authorize the establishment of federal agency shuttles to and from mass transit facilities. While many federal agencies throughout the region are within walking distance of Metrorail stations, and other transit facilities, some are not. This legislation will make transit accessible to many federal workers for whom transit is not currently a viable alternative because their work site is not convenient to a Metro station.

Many thanks for your leadership in proposing this legislation. It is another example in a long list of initiatives you have sponsored to promote public transportation in the National Capital Region and the nation.

Sincerely,

RICHARD A. WHITE,
General Manager and Chief Executive Officer.

MAY 12, 2005.

Hon. PAUL SARBANES,
Ranking Member, Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: I am writing to you to express the support of the Virginia Railway Express for your efforts to reintroduce legislation that would provide transit pass transportation fringe benefits to all qualified Federal employees in the National Capital region. As someone who has always been an advocate for the promotion of public transportation and the mobility it affords the citizenry, we are fortunate to have you as the Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs, which oversees mass transit programs.

As you have witnessed, increased federal investment in transit under TEA 21 has led to dramatic growth in public transportation ridership, particularly in the National Capital Region. The Virginia Railway Express is a prime example of that growth, with ridership increasing by 17% each year for the past four years, making us one of the fastest growing commuter railroads in America. Nearly 64% of our ridership is comprised of federal and/or military employees working in the region.

Currently, transit benefits are offered to a select core of federal employees under Executive Order 13150. The benefit is limited to the executive branch agencies with no requirement for participation by the legislative and judicial branches. Such legislation would codify transit benefits to all eligible federal employees by broadening the scope of participation to another 100,000 workers, thus providing greater flexibility and mobility for the federal work force in the region.

Your legislation is significant not only because it affords greater options to our federal workforce, but also because the use of public transit is the only recourse to help relieve the growing problem of traffic congestion in the region. For instance, today VRE transports enough people to remove more than one lane of traffic off of I–95 and I–66 during peak commuting rush hours in the morning and the evening. Not only does it reduce car emissions; thus improving air quality, but also ensures that the federal and private workforce can get to work in a timely fashion; thus saving millions of dollars for employers. The passage of this legislation would only increase these benefits to our region.

In conclusion, let me again thank you for all the support that you have given to public transportation over the years and for authoring this much needed legislation. I hope that with your direct involvement that we will be successful in seeing this measure signed into law.

Sincerely,

DALE ZEHNER,
Chief Executive Officer.

By Mr. DURBIN:

S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a

combat operation; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce the Welcome Home G.I. Bill. Similar to the GI Bill for soldiers returning from World War II, this Welcome Home G.I Bill establishes a program of benefits designed to reward returning veterans and ease their transition into civilian life.

These benefits would be available to troops who deployed for six months or more outside the United States for combat, contingency, peacekeeping or humanitarian operations after September 11, 2001. The bill also covers troops who do not meet the six-month service requirement because they were discharged earlier for medical or hardship reasons.

This bill provides our returning heroes with improved health care, education and job training assistance, and help with a down-payment on a home.

Returning troops deserve better health care coverage. Currently, upon separating from the military, active duty service members receive six months of healthcare coverage as a ''transition'' benefit and thereafter may enroll for an additional 18 months under the Continued Health Care Benefit Program provided they pay required premiums. Reservists released from active duty can pay premiums to obtain a year of coverage for every three months they were mobilized.

Under the Welcome Home G.I. Bill, a returning veteran who is unable to secure health care coverage from an employer would be entitled to exactly the same medical care they received while in the service. Veterans would be entitled to this benefit for up to five years.

Our troops also deserve better medical screening before and after deployments. Current law establishes a system of pre-deployment and post-deployment medical examinations, including an assessment of mental health and the drawing of blood samples, to accurately record the medical condition of members before and after their deployment.

The Welcome Home G.I. bill improves the quality of pre-deployment and post-deployment medical screening by requiring that the pre-deployment exam include disease screening and the collection of clinical data such as vital signs, immunization history and past physical or mental health conditions. It also requires post-deployment medical screening to include a self-administered survey in which the service member may report information about any relevant exposures during the period of deployment. These provisions will help identify war-related ailments so the information will be available to answer any future questions about the ailment's connection to military service.

Returning warriors need access to educational opportunities that can enhance their employment prospects in civilian life after they depart military service. Currently active duty troops have the option of enrolling in the Montgomery G.I. Bill education benefits program, under which the service member contributes $100 per month for 12 months while in service and then later may receive up to $1,004 per month in education benefits for up to 36 months. Currently, mobilized reservists receive some portion of the active duty benefit depending on the length of their activation. Under the Welcome Home G.I. Bill, our Iraq and Afghanistan veterans both active duty and mobilized reserve component troops would receive education or job training benefits worth a maximum of $75,000 over 48 months. So this bill basically adds a little more than $500 per month to the current benefit and extends it for an extra year. The benefit could also be used to repay student loans. In addition, qualifying troops who previously enrolled in the Montgomery G.I. Bill program would have their contribution refunded.

Finally, the Welcome Home G.I. Bill helps our returning veterans realize the American dream of owning their own home. For a 5-year period after completion of their qualifying service, returning veterans may receive a tax-free $5,000 down payment for the first-time purchase of a home.

Our veterans who have endured the burdens of war, under the most trying conditions, at tremendous personal risk and sacrifice, deserve more than they are currently provided by this Nation upon their return. They deserve the improved health care, education and job training, and home-ownership assistance which this bill provides. I invite my colleagues to join me in supporting this bill.

Mr. COLEMAN (for himself and Mr. PRYOR):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

Mr. COLEMAN. Mr. President, today I am introducing legislation to help the United States compete in an increasingly global economy in order to keep and to grow good paying, high quality jobs here at home. I am very pleased to be joined by my very good friend and colleague, Senator MARK PRYOR, who cares as deeply about these issues as I do.

In recent years much has been written about globalization—especially the ''outsourcing'' of American jobs overseas. In fact, my hometown paper, the St. Paul Pioneer Press recently ran an editorial highlighting a survey done by the Federal Reserve that shows despite all the talk of ''outscouring'' and ''lost jobs'', globalization has resulted in more jobs and more money for Minnesota's workers. I ask unanimous consent that this article be included in the record along with my statement. However, that same editorial warned that as China, India and the European Union work to expand their own market opportunities by modernizing their infrastructure and improving the skills of their workforce, there is no guarantee that the world's best companies will continue to invest here at home.

Yet, at the same time that the Labor Department has projected that new jobs requiring advanced science, engineering and technical training will increase four times faster than the average national job growth rate, only 36 percent of 9th–12th graders in Minnesota are taking upper level math courses, and only 22 percent of are taking upper level science. Moreover, in a high tech economy that values knowledge and ideas as much as the products they produce the U.S. Patent and Trademark Office (PTO) has reported that the time it takes someone to get a patent is exploding. The facts read loud and clear: in order to maintain our place as the leader in tomorrow's economy, America must act now to maintain our competitive advantage and remain ahead of the curve.

That is why we are introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 or the COMPETE ACT of 2005. The COMPETE Act is based on three simple, fundamental ideas: 1. The U.S. needs to maintain its competitive advantage in robust technology and innovation; 2. We must continue to ''upskill'' our workforce to ensure they have the skills necessary to remain competitive in a global economy that is more reliant on technology than ever before; and 3. We must utilize private-public partnerships to help improve education in the areas of science, technology, engineering and mathematics.

America's economic strength is rooted in its ability to innovate, and so the COMPETE Act strengthens and expands the R&D tax credit. Expanding the R&D tax credit will help American companies to stay on the forefront of the technological revolution. This credit helps fuel job creation here at home and enables companies to bring more products and services to market.

The COMPETE Act also reforms and improves the U.S. Patent Trademark Office (PTO). It is no secret that patents and trademarks are the currency that drives America's high-tech economy. Unfortunately, the PTO estimates that it will take an average of 49 months by 2009 for it to issue a patent. This is a lifetime when you are innovating, and discourages new ideas. Furthermore, the current backlog on patent applications now totals almost a half million—the highest ever. Fortunately, the PTO has come up with a solution to this problem. However, it does not have the money to implement it. The COMPETE Act provides the PTO with the crucial funding necessary to reform the patent and trademark process so that U.S. companies remain on the forefront of the technological revolution.

Today, our employers need more than just raw materials; they need a highly skilled workforce who adds that extra value to their product. That is

why the COMPETE Act establishes a tax credit that will help ''upskill'' America's workers so that they can compete in an economy increasingly more dependent on information, communication and technology (ICT) skills. Indeed, ICT skills are today's newest raw material and are the infrastructure America needs to be a leader in today's global market.

To help close the math and science gap, the COMPETE Act creates a public-partnership that will leverage the expertise and resources of the private sector and those in the university community to establish joint regional training and research centers. These centers will provide training and technical assistance to teachers so they will be better equipped to get students interested in math and science at an early age.

The COMPETE Act rewards high performing schools in math and science and at the same time provides an incentive for businesses to get more involved in helping high-need schools to improve in the areas of math and science. Finally, the COMPETE Act establishes a matching grant program where federal and private resources will be used to help graduate students in science, technology, engineering and mathematics meet the cost of getting a graduate degree. This grant program will also support outreach and mentoring activities to increase the participation of underrepresented groups in these fields at every level of education.

Today is the time to prepare for tomorrow and the COMPETE Act represents an important step in helping to prepare the U.S. to succeed in meeting the challenges of a rapidly changing world. The COMPETE Act will help the U.S. remain ahead of the curve when it comes to competing in today's global economy. That is why a number of diverse organizations, including the R&D Credit Coalition, National Council of Teachers of Mathematics, National Science Teachers Association, Computing Technology Industry Association (CompTIA), American Association for the Advancement of Science, National Association of State Universities & Land-Grant Universities, ASSE Engineering Deans Council, Council of Graduate Schools, American Society for Training & Development, Association of American Universities, and the Intellectual Property Owners Association support one or may of tile provisions of the COMPETE Act.

I ask unanimous consent that their letters of support be printed in the RECORD.

Today our economy is both more vulnerable and more successful than it has ever been. To ensure that we are maximizing our chances for success, we need to help employees and individuals innovate. We need to have a workforce that has the skills necessary to compete in a worldwide economy that is increasingly dependent on technology. We need to focus on math and science education to ensure that America continues to produce the best engineers and scientists in the world. And above all, we need to do those things necessary to make the U.S. the best place to do business in the world. The bottom line is we all want America's moms and dads to enjoy good paying jobs here at home so they can do what every mom and dad wants to do and that is give our kids a better life than we had. That's what the COMPETE Act is all about.

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

[From the St. Paul Pioneer Press, Dec. 19, 2004]

MINNESOTA MUST COMPETE IN A GLOBAL ECONOMY

The Federal Reserve Bank of Minneapolis recently published the findings of the annual survey conducted by Minnesota Technology Inc. and the Minnesota Department of Employment and Economic Development. The clear message from Minnesota businesses is that globalization is here to stay and it's not all bad.

''It's the new hard reality,'' said Ron Kirscht, president of Donnelly Custom Manufacturing Co. in Alexandria.

Indeed, for all the hand wringing over outsourcing and the fact that Bemidji has to compete with Bangalore, it's clear that an increasingly global economy has been a net gain for Minnesota.

''The results showed that state manufacturers and service providers in industries most likely to be affected by globalization are integrating rapidly into the global community, whether through importing, exporting, off shoring or foreign direct investment,'' the Fed said in fedgazette, its monthly publication.

For instance, a dozen years ago, Donnelly did very little importing and no exporting. Today it imports components, materials and tools, and exports its custom-built products around the world.

''We couldn't compete if we didn't,'' Kirscht said.

Some executives even admit that globalization has made them more competitive.

''There's always the feeling that the fewer the competitors the better,'' said Steven Cheppard, CEO of Kenyon-based Foldcraft Co. ''But in a sort of convoluted fashion it is possible to make a positive out of this. It forces us to make ourselves better and better.''

According to the survey, about 21 percent of respondents were importers and 32 percent exporters in 1998. Today both numbers are around 40 percent.

About 20 percent of those surveyed reported increased employment and production during the same period. On wages, about 43 percent of businesses expect them to increase; 38 percent see no changes and 19 percent see a decrease due to increased global competition. Perhaps more important, businesses expect to add more new production jobs between now and 2008 than they did between 1998 and 2003.

Not surprisingly, the top three reasons cited for outsourcing and importing were to reduce or control costs, increase revenue and increase overall competitiveness. About 43 percent of those surveyed said the cost of employee health care benefits was a key factor in their decision to move jobs offshore or out of state. About one-third said wages and taxes chased them out of Minnesota.

Team Industries, a designer and manufacturer of power trains for recreational vehicles, has manufacturing plants in six Minnesota cities, and a market reach that extends around the globe. Jason Roue, general manager at the company's Baxter plant in central Minnesota, noted that in the past few years the company has expanded its network of global sourcing.

It now imports lower-cost parts and raw materials from around the world, but at the same time have seen significant export growth as international demand for its products has increased.

''If we plan on staying in business, we're going to have to adapt,'' said Roue. ''By adopting global sourcing and lean manufacturing techniques, and by differentiating ourselves from foreign competitors, mainly in China and Korea, we think we can meet the challenge of global competition.''

The Fed notes that regardless of how businesses ''feel'' about globalization, ''they seem to understand that membership is not negotiable, but required. ''

We agree. Furthermore, we'd argue that when state and local lawmakers are considering new taxes and regulations, even with a projected budget shortfall of $1.4 billion, they also need to consider how our regimen compares with not just Seattle and Shreveport, but Shanghai and Singapore. For the Fed study makes clear that the world—not just the country—is increasingly the competitive landscape on which Minnesota must compete.

INTELLECTUAL PROPERTY OWNERS ASSOCIATION,
Washington, DC, May 12, 2005.

Hon. NORM COLEMAN,
Senate Hart Office Building,
Washington, DC.

Hon. MARK PRYOR,
Senate Dirksen Office Building,
Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: Intellectual Property Owners Association (IPO) writes to voice its strong support for Title III of the COMPETE Act of 2005. As you know, IPO has long advocated ending diversion of the user fees paid by patent and trademark applicants to the U.S. Patent and Trademark Office (USPTO) and Title III of the COMPETE Act of 2005 would accomplish this goal.

Intellectual property rights including patents and trademarks are the currency that drives America's high-tech economy. Yet, the USPTO currently faces not only a workload crisis, but also questions about the quality of the patents it grants.

IPO's recommended objectives for the USPTO are to: (1) improve patent quality, (2) reduce the time it takes applicants to get a patent, and (3) achieve cost effectiveness in all operations. IPO has supported the USPTO's ''21st Century Strategic Plan'' as a way to achieve these objectives, but until now, the USPTO has been hampered by lack of funding. Last year, Congress passed legislation raising patent application fees by 15 to 25 percent. The fee increase will provide more than $200 million a year in additional revenue to the USPTO through September 2006; however, a long term solution to USPTO's funding problems is still needed.

America's innovators remain prepared to pay out of our own pockets to improve the situation at the PTO provided that the money will go to the agency and not be diverted to unrelated programs. This fear is not unfounded, given that Congress diverted more than three-quarters of a billion dollars of fees paid by patent and trademark applicants to unrelated government programs from 1992 until 2004.

IPO firmly believes that it is reasonable and just that the USPTO keep 100 percent of its own patent and trademark fees. To allow

for anything less would be a disservice to inventors and entrepreneurs and a drag on our nation's competitiveness and productivity.

We thank you for supporting America's innovators by introducing legislation that would end the practice of fee diversion, and we are committed to working with you to ensure that such legislation is enacted into law.

Sincerely,

HERBERT C. WAMSLEY,
Executive Director.

AMERICAN SOCIETY FOR TRAINING AND DEVELOPMENT,
Alexandria, VA, May 11, 2005.

Hon. NORM COLEMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLEMAN: On behalf of the American Society for Training & Development (ASTD), thank you for introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 (COMPETE Act). As the world's largest association dedicated to training, workplace learning, and performance professionals, ASTD is acutely aware that one of the most critical issues facing organizations today is developing the knowledge and capabilities of the workforce. Your bill is a big step in the right direction to ensuring that the U.S. workforce remains competitive in the global economy.

Sections 111–112 of Title I, the Tax Credit for Information and Communications Technology Education and Training Program Expenses, are of particular interest to ASTD. This tax credit can benefit all U.S. companies because every industry requires IT skills, not just IT-based companies. According to ASTD's 2004 State of the Industry Report, one of the most important content areas in which employees are trained in U.S. organizations is IT and systems training. A tax credit for expenses paid or incurred for IT training demonstrates a targeted solution for both employer and employee (or an unemployed individual). Employers identify what training is needed; employees are able to train or upskill in industries that need skilled workers. And because employers or individuals are required to pay half the training or educational costs, there is a greater likelihood that the program will be successful. ASTD therefore supports your efforts to include these sections in the COMPETE Act.

Many businesses find themselves ill-equipped to grow because the skills required to meet demand for growth are in short supply in their organizations. A full 66 percent of respondents to a recent ASTD poll say there is a skills gap in their organizations right now, and almost 20 percent say there will be one within the next year. The best approach for addressing the skills gap is the COMPETE Act's solution of providing government incentives that enable the private sector to train or educate more people in the industries in which skilled workers are needed.

The COMPETE Act is an excellent example of a public-private partnership that can ensure companies remain competitive, and individuals seek the education they need to enter or re-enter the workforce. We look forward to working with you and your staff as this bill progresses through the Senate.

Sincerely,

TONY BINGHAM,
President & CEO.

COUNCIL OF GRADUATE SCHOOLS,
Washington, DC.

Hon. NORM COLEMAN,
U.S. Senate, Washington, DC.
Hon. MARK PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: I am writing to commend you for supporting our nation's economic competitiveness through the introduction of the Collaborative Opportunities to Mobilize and Promote Education, Technology and Enterprise (COMPETE) Act. The Council of Graduate Schools (CGS) and its 460 plus member institutions are very grateful for your leadership in addressing the important issue of American competitiveness.

CGS is committed to collaborating with you and others on developing a coordinated national strategy to enhance America's competitiveness. The European Union, China, India and many other countries are making large investments in education, research and development, greatly expanding their ability to compete in the global economy. The United States cannot afford to coast on its past successes and must invest now to maintain our economic preeminence and national security in the years ahead.

The policy changes you propose include providing a new matching fund program to promote competitiveness through graduate education, extension and enhancement of the R&D tax credit, and improvements to the Federal patent and trademark process. These policy proposals along with others designed to support math and science education in elementary and secondary schools establish a solid foundation for a longer-term, comprehensive agenda designed to maintain our nation's leadership in innovation, research and discovery.

We are also appreciative of your additional legislative efforts to increase global competition for the best and the brightest. As you know, the U.S. must continue welcoming qualified international students to our country and simultaneously implementing policies to address declining participation of domestic students across key fields in science, technology, engineering, mathematics and critical foreign languages.

Thank you for your leadership in addressing American competitiveness and for supporting the vital role played by graduate education as a key part of our national strategy to maintain our leadership in the global economy.

Sincerely,

DEBRA W. STEWART.

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. 1020

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005" or the "COMPETE Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—TAX INCENTIVES
SUBTITLE A—RESEARCH CREDIT
Sec. 101. Extension of research credit.
Sec. 102. Increase in rates of alternative incremental credit.
Sec. 103. Alternative simplified credit for qualified research expenses.
SUBTITLE B—EDUCATION
Sec. 111. Credit for information and communications technology education and training program expenses.
Sec. 112. Eligible educational institution.
Sec. 113. Alternative percentage limitation for corporate charitable contributions to the mathematics and science partnership program.
TITLE II—EDUCATION PROVISIONS
Sec. 201. Regional training and research centers.
Sec. 202. Math and science partnership bonus grants.
Sec. 203. Matching funds program to promote American competitiveness through graduate education.
TITLE III—UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION
Sec. 301. Patent and Trademark Office funding.

TITLE I—TAX INCENTIVES

Subtitle A—Research Credit

SEC. 101. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking "2005" and inserting "2007".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking "2005" and inserting "2007".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 102. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent";

(2) by striking "3.2 percent" and inserting "4 percent"; and

(3) by striking "3.75 percent" and inserting "5 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 103. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) IN GENERAL.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6

percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(b) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(2) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Education

SEC. 111. CREDIT FOR INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''SEC. 30B. INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of information and communications technology education and training program expenses paid or incurred by the taxpayer for the benefit of—

''(1) in the case of a taxpayer engaged in a trade or business, an employee of the taxpayer, or

''(2) in the case of a taxpayer who is an individual not so engaged, such individual.

''(b) LIMITATIONS.—

''(1) EMPLOYERS.—In the case of any taxpayer described in subsection (a)(1), the amount of expenses which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

''(A) the excess of—

''(i) the sum of—

''(I) $10,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred information and communications technology education and training expenses, plus

''(II) $8,000 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses, over

''(ii) the average amount of such expenses paid or incurred by the taxpayer with respect to all employees for the 3 preceding taxable years, or

''(B) the sum of—

''(i) $4,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred such expenses, plus

''(ii) $2,500 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses.

''(2) INDIVIDUALS.—The amount of expenses with respect to any individual described in subsection (a)(2) which may be taken into account under subsection (a) for the taxable year shall not exceed $2,500 ($4,000 in the case of a qualified individual).

''(3) COORDINATION OF CREDITS.—

''(A) IN GENERAL.—The credit under subsection (a)(1) allowed to an employer with respect to any employee shall be reduced by the coordination exclusion amount.

''(B) PORTION OF CREDIT ALLOWABLE.—For purposes of subparagraph (A), the coordination exclusion amount is an amount which bears the same ratio to the applicable limitation as—

''(i) the amount (if any) of the limitation applicable to such employee under subsection (b)(2) which such employee does not assign to such employer, bears to

''(ii) $2,500 ($4,000 in the case of an employee who is a qualified individual).

''(C) APPLICABLE LIMITATION.—For purposes of subparagraph (B), the term 'applicable limitation' means the amount under paragraph (2) with respect to such employee which is used by such employer to calculate the limitation under such paragraph.

''(4) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual—

''(A) with respect to whom all information and communications technology education and training program expenses are paid or incurred in connection with a program operated—

''(i) in an empowerment zone or enterprise community designated under part I of subchapter U or a renewal community designated under part I of subchapter X,

''(ii) in a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act,

''(iii) in an area designated as a disaster area by the Secretary of Agriculture or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the taxable year or any of the 4 preceding taxable years,

''(iv) in a rural enterprise community designated under section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999,

''(v) in an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone,

''(vi) in an area over which an Indian tribal government (as defined in section 7701(a)(40)) has jurisdiction, or

''(vii) by an employer who has 200 or fewer employees for each business day in each of 20 or more calendar weeks in the current or preceding calendar year,

''(B) with a disability, or

''(C) who is receiving a benefit under chapter 2 of title II of the Trade Act of 1974.

''(c) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'information technology education and training program expenses' means expenses paid or incurred by reason of the participation of the taxpayer (or any employee of the taxpayer) in any information and communications technology education and training program. Such expenses shall include expenses paid in connection with—

''(A) course work,

''(B) certification testing,

''(C) programs carried out under the Act of August 16, 1937 (50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq), which are registered by the Department of Labor, and

''(D) other expenses that are essential to assessing skill acquisition.

''(2) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM.—The term 'information technology education and training program' means a training program in information and communications technology workplace disciplines or which is provided in the United States by an accredited college, university, private career school, postsecondary educational institution, a commercial information technology provider, or an employer-owned information technology training organization.

''(3) COMMERCIAL INFORMATION TECHNOLOGY TRAINING PROVIDER.—The term 'commercial information technology training provider' means a private sector organization providing an information and communications technology education and training program.

''(4) EMPLOYER-OWNED INFORMATION TECHNOLOGY TRAINING ORGANIZATION.—The term 'employer-owned information technology training organization' means a private sector organization that provides information technology training to its employees using internal training development and delivery personnel. The training programs must use industry-recognized training disciplines and evaluation methods, comparable to institutional and commercial training providers.

''(d) DENIAL OF DOUBLE BENEFIT.—

''(1) DISALLOWANCE OF OTHER CREDITS AND DEDUCTIONS.—No deduction or credit shall be allowed under any other provision of this chapter for expenses taken into account in determining the credit under this section.

''(2) REDUCTION FOR HOPE AND LIFETIME LEARNING CREDITS.—The amount taken into account under subsection (a) shall be reduced by the information technology education and training program expenses taken into account in determining the credits under section 25A.

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 45A(e)(2) and subsections (c), (d), and (e) of section 52 shall apply.

''(f) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the sum of the regular tax liability (as defined by section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and section 27 for the taxable year.

''(g) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning after 2004, each of the dollar amounts under paragraphs (1), (2), and (3) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) of the calendar year in which the taxable year begins, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 30B. Information and communications technology education and training program expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.

SEC. 112. ELIGIBLE EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Section 25A(f)(2) of the Internal Revenue Code of 1986 (relating to eligible educational institution) is amended to read as follows:

''(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

''(A) an institution—

''(i) which is described in section 101(b) or 102(a) of the Higher Education Act of 1965, and

''(ii) which is eligible to participate in a program under title IV of such Act, or

''(B) a commercial information and communications technology training provider (as defined in section 30B(c)(3)).''.

(b) CONFORMING AMENDMENT.—The second sentence of section 221(d)(2) of the Internal Revenue Code of 1986 is amended by striking ''section 25A(f)(2)'' and inserting ''section 25A(f)(2)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 113. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) of the Internal Revenue Code of 1986 (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965..

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

TITLE II—EDUCATION PROVISIONS

SEC. 201. REGIONAL TRAINING AND RESEARCH CENTERS.

(a) CENTERS ESTABLISHED.—From amounts appropriated under subsection (f), the Director of the National Science Foundation shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to establish 10 regional training and research centers to help maintain the Nation's workforce and education investment and infrastructure in the sciences, technology, engineering, and mathematics.

(b) ELIGIBLE ENTITY DEFINED.—In this section the term ''eligible entity'' means a partnership between an institution of higher education and 1 or more of the following entities:

(1) A research organization.

(2) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that—

(A) is exempt from taxation under section 501(a) of such Code; and

(B) has expertise in the sciences, technology, engineering, or mathematics.

(3) A trade or business.

(c) LOCATION.—The Director of the National Science Foundation shall award a grant for the establishment of 1 regional training and research center in each of the 10 geographic regions of the United States that is served by a regional educational laboratory under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564).

(d) DESIGNATION.—Each regional training and research center established under this section shall be known as a ''Making America Competitive Center'' (MAC Center).

(e) USE OF FUNDS.—

(1) IN GENERAL.—Each eligible entity receiving a grant under this section shall use the grant funds to establish a regional training and research center that—

(A) provides training, technical assistance, and professional development in the sciences, technology, engineering, and mathematics, to or for States, local educational agencies, qualified teachers, and schools, in the region served by the regional training and research center;

(B)(i) develops and funds joint cooperative programs, for qualified teachers and students, with a trade or business related to the sciences, technology, engineering, or mathematics; and

(ii) develops instructional materials and teaching methods in the areas of the sciences, technology, engineering, and mathematics for use in primary and secondary schools in the region served by the center; and

(C) builds networks among the sciences, technology, engineering, and mathematics resources within the 10 regions and nationally.

(2) QUALIFIED TEACHER.—For purposes of paragraph (1)(B), the term ''qualified teacher'' means any individual who—

(A) teaches one or more courses in grades 4 through 12 primarily in—

(i) science;

(ii) computer science;

(iii) occupational preparation with respect to vocational and technical occupations;

(iv) engineering; or

(v) mathematics; or

(B)(i) received a baccalaureate or similar degree with a major or a minor in the sciences, technology, engineering, or mathematics from a college, university, vocational school, or other postsecondary institution eligible to participate in a student aid program administered by the Department of Education; and

(ii) is a teacher who is highly qualified (within the meaning of section 9101(23) of the Elementary and Secondary Education Act of 1965).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $200,000,000 for fiscal year 2006;

(2) $210,000,000 for fiscal year 2007;

(3) $230,000,000 for fiscal year 2008;

(4) $270,000,000 for fiscal year 2009; and

(5) $350,000,000 for fiscal year 2010.

SEC. 202. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661 et seq.) is amended by adding at the end the following:

''SEC. 2204. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

''(a) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall award a grant—

''(1) for each of the school years 2005–2006 through 2014–2015, to each of the 5 elementary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in mathematics, as measured by the improvement in the students' average score on the State's assessments in mathematics from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded; and

''(2) for each of the school years 2009–2010 through 2014–2015, to each of the 5 elementary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in science, as measured by the improvement in the students' average score on the State's assessments in science from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded.

''(b) GRANT AMOUNT.—The amount of each grant awarded under this section shall be $500,000.

''(c) APPLICABILITY.—Sections 2201, 2202, and 2203 shall not apply to this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $130,000,000 for each of fiscal years 2006 through 2009, and $260,000,000 for each of fiscal years 2010 through 2015.''.

SEC. 203. MATCHING FUNDS PROGRAM TO PROMOTE AMERICAN COMPETITIVENESS THROUGH GRADUATE EDUCATION.

(a) PURPOSE.—The purpose of this section is to promote America's economic competitiveness and job creation by—

(1) assisting graduate students studying the sciences, technology, engineering, and mathematics;

(2) advancing education in the sciences, technology, engineering, and mathematics;

(3) stimulating greater links between private industry and graduate education; and

(4) enabling the Office of Science of the Department of Energy to establish a matching funds program for eligible institutions of higher education.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INSTITUTION OF HIGHER EDUCATION.—The term ''eligible institution of higher education'' means an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001), that—

(A) offers an established program of post-baccalaureate study leading to a graduate degree in the sciences, technology, engineering, or mathematics; and

(B) enters into a written agreement with the Director pursuant to subsection (e) to carry out the authorized activities described in the application submitted under subsection (d).

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Science of the Department of Energy.

(c) GRANTS.—

(1) GRANTS AUTHORIZED.—The Director is authorized to award grants, on a competitive basis, to eligible institutions of higher education to enable the eligible institutions of higher education to carry out authorized activities described in subsection (e).

(2) MATCHING FUNDS REQUIRED.—In order to receive a grant under this subsection an eligible institution of higher education shall agree to provide matching funds, toward the cost of the authorized activities to be assisted under the grant, in an amount equal to 25 percent of the funds received under the grant.

(3) AWARD CONSIDERATIONS.—In awarding grants under this subsection the Director shall take into consideration—

(A) the demonstrated commitment of the eligible institution of higher education to providing matching funds (including tuition remission, tuition waivers, and other types of institutional support) toward the cost of the authorized activities to be assisted under the grant;

(B) the demonstrated capacity of the eligible institution of higher education to raise matching funds from private sources;

(C) the demonstrated ability of the eligible institution of higher education to work with private corporations and organizations to promote economic competitiveness and job creation;

(D) the demonstrated ability of the eligible institution of higher education to increase the number of the eligible institution of higher education's graduates in the sciences, technology, engineering, or mathematics with the interdisciplinary background and the technical, professional and personal skills needed to contribute to American competitiveness and job creation in the future;

(E) the potential for the grant assistance to increase the number of graduates in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(F) the demonstrated track record of the eligible institution of higher education in outreach and mentoring activities that have the expressed purpose of recruiting and retaining women, recognized minorities, and individuals with disabilities in the sciences, technology, engineering, or mathematics.

(4) AMOUNT.—The Director shall award each grant under this subsection in an amount that is not more than $1,000,000 for each fiscal year.

(5) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Director shall ensure—

(A) an equitable geographic distribution of the grants; and

(B) an equitable distribution among public and independent eligible institutions of higher education.

(d) APPLICATIONS.—Each eligible institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information and assurances as the Director may require. Each such application shall describe—

(1) the authorized activities for which assistance is sought;

(2) the source and amount of the matching funds to be provided; and

(3) the amount of funds raised by the eligible institution of higher education from private sources that will be allocated and spent to carry out the authorized activities described in subsection (e).

(e) AUTHORIZED ACTIVITIES; AGREEMENT.—Each eligible institution of higher education desiring a grant under this section shall enter into a written agreement with the Director under which the eligible institution of higher education agrees to use all of the grant funds—

(1) to provide stipends or other financial assistance (such as tuition assistance and related expenses) for students who are enrolled in graduate programs in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(2) to support outreach and mentoring activities to increase the participation of underrepresented groups in the sciences, technology, engineering, or mathematics at all or any level of education, including elementary, secondary and post-secondary education.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $50,000,000 for fiscal year 2006;

(2) $60,000,000 for fiscal year 2007;

(3) $70,000,000 for fiscal year 2008;

(4) $80,000,000 for fiscal year 2009; and

(5) $90,000,000 for fiscal year 2010.

TITLE III—UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION

SEC. 301. PATENT AND TRADEMARK OFFICE FUNDING.

(a) AMENDMENT.—Section 42(c) of title 35, United States Code, is amended—

(1) by striking ''(c)'' and inserting ''(c)(1)''; and

(2) by adding at the end the following:

''(2) If estimated fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, the Director shall reduce fees established under section 41 of this title and section 31(a) of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') for that fiscal year or the remainder of that fiscal year so that estimated collections for that fiscal year are equal to the amount appropriated to the Office for that fiscal year. Such reductions shall take effect on the later of October 1, of that fiscal year or 2 months after the date of enactment of the Act making the appropriation, and shall not be retroactive.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 2006 and each fiscal year thereafter.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President I rise today to introduce the Workforce Investment Act Amendments of 2005. I am pleased to be joined in this important effort by Senator KENNEDY, the Ranking Member of the Health, Education, Labor and Pensions Committee.

The Workforce Investment Act (WIA), together with the Perkins Career and Technical Education Act, which we passed earlier this year, and the Higher Education Act, which we will consider in the next few months, will provide the important resources that are needed to adequately prepare our workforce with the skills that are necessary for jobs and careers in high wage and high skilled occupations.

We are facing an economic challenge that threatens our ability as a nation to compete in the global economy. As we heard from the witnesses who testified at a hearing held on April 14, 2005, before the Health, Education, Labor and Pensions Committee, we have too few workers with too few skills. The skill and literacy requirements of today's and tomorrow's workplace cannot be met if we do not provide everyone access to lifelong education, training and retraining.

Sixty percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. About half of our current workforce does not have a postsecondary education degree or credential, when all projections are that job growth over the next decade will be in jobs that require some postsecondary education or training.

Technology is demanding that everyone continue to learn and gain skills. In January of this year the labor force participation rate for individuals over the age of 16 who are willing and able to work was 68.8 percent, the lowest in over 15 years, as more Americans conclude that they cannot meet the skill demands of today's workplace and choose to no longer participate in the workforce.

The legislation I am introducing today helps meet these challenges. It is the result of a bipartisan process that began in the 108th Congress. It gives States and local areas the flexibility to provide training for jobs in high skill, high wage, and high demand occupations. It strengthens connections with the private sector, postsecondary education and training, and economic development systems to prepare the 21st century workforce. It improves the existing structure of one-stops to ensure an effective response to the changing needs of employers and workers in a new economy. It includes a new focus on entrepreneurial skills and micro-enterprises, addresses unique needs of small businesses and rural areas, and encourages collaboration locally and regionally with economic development and education.

This legislation also amends the Adult Education and Family Literacy Act and the Vocational Rehabilitation Act. These amendments encourage coordination with K–12 schools, postsecondary education and the workforce system so that individuals with barriers to workforce participation will have an opportunity to gain the literacy, language or core skills they will need to enter and advance in the workplace.

I hope that our bipartisan efforts will continue to produce the results that are needed as we move this bill through the Senate and into Conference. This legislation is critical to meeting the workforce challenges of the 21st century. It sends a clear message that we are serious about helping our workers and employers remain competitive and closing the skills gap that places America's long-term competitiveness in jeopardy.

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. 1021

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 ''Workforce Investment Act Amendments of 2005''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Subtitle A—Definitions

Sec. 101. Definitions.

Subtitle B—Statewide and Local Workforce Investment Systems

Sec. 111. Purpose.
Sec. 112. State workforce investment boards.
Sec. 113. State plan.
Sec. 114. Local workforce investment areas.
Sec. 115. Local workforce investment boards.
Sec. 116. Local plan.
Sec. 117. Establishment of one-stop delivery systems.
Sec. 118. Eligible providers of training services.
Sec. 119. Eligible providers of youth activities.
Sec. 120. Youth activities.
Sec. 121. Adult and dislocated worker employment and training activities.
Sec. 122. Performance accountability system.
Sec. 123. Authorization of appropriations.

Subtitle C—Job Corps

Sec. 131. Job Corps.

Subtitle D—National Programs

Sec. 141. Native American programs.
Sec. 142. Migrant and seasonal farmworker programs.
Sec. 143. Veterans' workforce investment programs.
Sec. 144. Youth challenge grants.
Sec. 145. Technical assistance.
Sec. 146. Demonstration, pilot, multiservice, research, and multistate projects.
Sec. 147. National dislocated worker grants.
Sec. 148. Authorization of appropriations for national activities.

Subtitle E—Administration

Sec. 151. Requirements and restrictions.
Sec. 152. Reports.
Sec. 153. Administrative provisions.
Sec. 154. Use of certain real property.
Sec. 155. General program requirements.
Sec. 156. Table of contents.

Subtitle F—Incentive Grants

Sec. 161. Incentive grants.

Subtitle G—Conforming Amendments

Sec. 171. Conforming amendments.

TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

Sec. 201. Short title; purpose.
Sec. 202. Definitions.
Sec. 203. Authorization of appropriations.
Sec. 204. Home schools.
Sec. 205. Reservation of funds; grants to eligible agencies; allotments.
Sec. 206. Performance accountability system.
Sec. 207. State administration.
Sec. 208. State distribution of funds; matching requirement.
Sec. 209. State leadership activities.
Sec. 210. State plan.
Sec. 211. Programs for corrections education and other institutionalized individuals.
Sec. 212. Grants and contracts for eligible providers.
Sec. 213. Local application.
Sec. 214. Local administrative cost limits.
Sec. 215. Administrative provisions.
Sec. 216. National Institute for Literacy.
Sec. 217. National leadership activities.
Sec. 218. Integrated English literacy and civics education.
Sec. 219. Transition.

TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW

Sec. 301. Wagner-Peyser Act.

TITLE IV—REHABILITATION ACT AMENDMENTS

Sec. 401. Short title.
Sec. 402. Technical amendments to table of contents.
Sec. 403. Purpose.
Sec. 404. Definitions.
Sec. 405. Administration of the Act.
Sec. 406. Reports.
Sec. 407. Carryover.

Subtitle A—Vocational Rehabilitation Services

Sec. 411. Declaration of policy; authorization of appropriations.
Sec. 412. State plans.
Sec. 413. Eligibility and individualized plan for employment.
Sec. 414. Vocational rehabilitation services.
Sec. 415. State rehabilitation council.
Sec. 416. Evaluation standards and performance indicators.
Sec. 417. Monitoring and review.
Sec. 418. State allotments.
Sec. 419. Reservation for expanded transition services.
Sec. 420. Client assistance program.
Sec. 421. Incentive grants.
Sec. 422. Vocational rehabilitation services grants.
Sec. 423. GAO studies.

Subtitle B—Research and Training

Sec. 431. Declaration of purpose.
Sec. 432. Authorization of appropriations.
Sec. 433. National Institute on Disability and Rehabilitation Research.
Sec. 434. Interagency committee.
Sec. 435. Research and other covered activities.
Sec. 436. Rehabilitation Research Advisory Council.
Sec. 437. Definition.

Subtitle C—Professional Development and Special Projects and Demonstrations

Sec. 441. Training.
Sec. 442. Demonstration and training programs.
Sec. 443. Migrant and seasonal farmworkers.
Sec. 444. Recreational programs.

Subtitle D—National Council on Disability

Sec. 451. Authorization of appropriations.

Subtitle E—Rights and Advocacy

Sec. 461. Architectural and Transportation Barriers Compliance Board.
Sec. 462. Protection and advocacy of individual rights.

Subtitle F—Employment Opportunities for Individuals With Disabilities

Sec. 471. Projects with industry.
Sec. 472. Projects with industry authorization of appropriations.
Sec. 473. Services for individuals with significant disabilities authorization of appropriations.

Subtitle G—Independent Living Services and Centers for Independent Living

Sec. 481. State plan.
Sec. 482. Statewide Independent Living Council.
Sec. 483. Independent living services authorization of appropriations.
Sec. 484. Program authorization.
Sec. 485. Grants to centers for independent living in States in which Federal funding exceeds State funding.
Sec. 486. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
Sec. 487. Standards and assurances for centers for independent living.
Sec. 488. Centers for independent living authorization of appropriations.
Sec. 489. Independent living services for older individuals who are blind.
Sec. 490. Program of grants.
Sec. 491. Independent living services for older individuals who are blind authorization of appropriations.

Subtitle H—Miscellaneous

Sec. 495. Helen Keller National Center Act.

TITLE V—TRANSITION AND EFFECTIVE DATE

Sec. 501. Transition provisions.
Sec. 502. Effective date.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act 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 Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Subtitle A—Definitions

SEC. 101. DEFINITIONS.

Section 101 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (1) through (4), (5) through (16), (17), (18) through (41), and (42) through (53) as paragraphs (2) through (5), (7) through (18), (20), (23) through (46), and (48) through (59), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) ACCRUED EXPENDITURES.—The term 'accrued expenditures' means charges incurred by recipients of funds under this title for a given period requiring the provision of funds for—

''(A) goods or other tangible property received;

''(B) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and

''(C) other amounts becoming owed under programs assisted under this title for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.'';

(3) in paragraph (2) (as redesignated by paragraph (1)), by striking ''Except in sections 127 and 132,'' and inserting ''Except in section 132,'';

(4) by striking paragraph (5) (as redesignated by paragraph (1)) and inserting the following:

''(5) BASIC SKILLS DEFICIENT.—The term 'basic skills deficient' means, with respect to an individual, that the individual—

''(A) has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test; or

''(B) is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.'';

(5) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

''(6) BUSINESS INTERMEDIARY.—The term 'business intermediary' means an entity that brings together various stakeholders with an expertise in an industry or business sector.'';

(6) in paragraph (9) (as redesignated by paragraph (1)), by inserting '', including a faith-based organization,'' after ''nonprofit organization'';

(7) in paragraph (10) (as redesignated by paragraph (1))—

(A) in subparagraph (B), by striking ''and'' after the semicolon;

(B) in subparagraph (C)—

(i) by striking ''for not less than 50 percent of the cost of the training.'' and inserting ''for—

''(i) a significant portion of the cost of training as determined by the local board,

taking into account the size of the employer and such other factors as the local board determines to be appropriate; and

''(ii) in the case of customized training (as defined in subparagraphs (A) and (B)) with an employer in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.'';

(8) in paragraph (11) (as redesignated by paragraph (1))—

(A) in subparagraph (A)(ii)(II), by striking ''section 134(c)'' and inserting ''section 121(e)'';

(B) in subparagraph (C), by striking ''or'' after the semicolon;

(C) in subparagraph (D), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(E)(i) is the spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

''(ii) is the spouse of a member of the Armed Forces on active duty who meets the criteria described in paragraph (12)(B).'';

(9) in paragraph (12)(A) (as redesignated by paragraph (1))—

(A) by striking ''and'' after the semicolon and inserting ''or'';

(B) by striking ''(A)'' and inserting ''(A)(i)''; and

(C) by adding at the end the following:

''(ii) is the dependent spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member; and'';

(10) in paragraph (14)(A) (as redesignated by paragraph (1)), by striking ''section 122(e)(3)'' and inserting ''section 122'';

(11) by inserting after paragraph (18) (as redesignated by paragraph (1)) the following:

''(19) HARD-TO-SERVE POPULATIONS.—The term 'hard-to-serve populations' means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.'';

(12) by inserting after paragraph (20) (as redesignated by paragraph (1)) the following:

''(21) INTEGRATED TRAINING PROGRAM.—The term 'integrated training program' means a program that combines occupational skills training with English language acquisition.

''(22) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a), and subparagraphs (A) and (B) of section 102(a)(1), of the Higher Education Act of 1965 (20 U.S.C. 1001(a), 1002(a)(1)).'';

(13) in paragraph (30) (as redesignated by paragraph (1))—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);'';

(14) in paragraph (31) (as redesignated by paragraph (1)), by inserting after ''fields of work'' the following: '', including occupations in computer science and technology and other emerging high-skill occupations,'';

(15) in paragraph (35) (as redesignated by paragraph (1)), by inserting '', subject to section 121(b)(1)(C)'' after ''121(b)(1)'';

(16) by striking paragraph (38) (as redesignated by paragraph (1)) and inserting the following:

''(38) OUT-OF-SCHOOL YOUTH.—The term 'out-of-school youth' means an out-of-school youth as defined in section 129(a)(1)(B).'';

(17) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

''(47) SELF-SUFFICIENCY.—The term 'self-sufficiency' means self-sufficiency within the meaning of subsections (a)(3)(A)(x) and (e)(1)(A)(xii) of section 134.'';

(18) in paragraph (49) (as redesignated by paragraph (1)), by striking ''clause (iii) or (v) of section 136(b)(3)(A)'' and inserting ''section 136(b)(3)(A)(iii)'';

(19) in paragraph (58) (as redesignated by paragraph (1)), by striking ''(or as described in section 129(c)(5))'' and inserting ''(or as described in section 129(a)(2))''; and

(20) in paragraph (59) (as redesignated by paragraph (1)), by striking ''established under section 117(h)'' and inserting ''that may be established under section 117(h)(2)''.

Subtitle B—Statewide and Local Workforce Investment Systems

SEC. 111. PURPOSE.

Section 106 (29 U.S.C. 2811) is amended to read as follows:

''SEC. 106. PURPOSES.

''The purposes of this subtitle are the following:

''(1)(A) Primarily, to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, self-sufficiency, and earnings of participants, and increase occupational skill attainment by participants.

''(B) As a result of the provision of the activities, to improve the quality of the workforce, reduce welfare dependency, increase self-sufficiency, and enhance the productivity and competitiveness of the Nation.

''(2) To enhance the workforce investment system of the Nation by strengthening one-stop centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training and related services, establishing a targeted approach to serving youth, improving performance accountability, and promoting State and local flexibility.

''(3) To provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities.

''(4) To provide workforce investment systems that are demand-driven and responsive to the needs of all employers, including small employers.

''(5) To provide workforce investment systems that work in all areas of the Nation, including urban and rural areas.

''(6) To allow flexibility to meet State, local, regional, and individual workforce investment needs.

''(7) To recognize and reinforce the vital link between economic development and workforce investment activities.

''(8) To provide for accurate data collection, reporting, and performance measures that are not unduly burdensome.

''(9) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies to ensure that the United States remains competitive in the global economy.

''(10) To equip workers with higher skills and contribute to lifelong education.

''(11) To eliminate training disincentives for hard-to-serve populations and minority workers, including effectively utilizing community programs, services, and agencies.

''(12) To educate limited English proficient individuals about skills and language so the individuals are employable.

''(13) To increase the employment, retention and earnings of individuals with disabilities.''.

SEC. 112. STATE WORKFORCE INVESTMENT BOARDS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—Section 111(b) (29 U.S.C. 2821(b)) is amended—

(A) in paragraph (1), by striking subparagraph (C) and inserting the following:

''(C) representatives appointed by the Governor, who—

''(i) are the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners, except that—

''(I) in any case in which no lead State agency official has responsibility for such a program or activity, the representative shall be a representative in the State with expertise relating to such program or activity; and

''(II) in the case of the programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), the representative shall be the director of the designated State unit, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705);

''(ii) are the State agency officials responsible for economic development;

''(iii) are representatives of business in the State, including small businesses, who—

''(I) are owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;

''(II) represent businesses with employment opportunities that reflect employment opportunities in the State; and

''(III) are appointed from among individuals nominated by State business organizations, business trade associations, and local boards;

''(iv) are chief elected officials (representing cities and counties, where appropriate);

''(v) are representatives of labor organizations, who have been nominated by State labor federations; and

''(vi) are such other State agency officials and other representatives as the Governor may designate.''; and

(B) in paragraph (3), by striking ''paragraph (1)(C)(i)'' and inserting ''paragraph (1)(C)(iii)''.

(2) CONFORMING AMENDMENT.—Section 111(c) (29 U.S.C. 2821(c)) is amended by striking ''subsection (b)(1)(C)(i)'' and inserting ''subsection (b)(1)(C)(iii)''.

(b) FUNCTIONS.—Section 111(d) (29 U.S.C. 2821(d)) is amended—

(1) in paragraph (1), by striking ''development'' and inserting ''development, implementation, and revision'';

(2) in paragraph (2)—

(A) by striking ''section 134(c)'' and inserting ''section 121(e)''; and

(B) in subparagraph (A), by inserting after ''section 121(b)'' the following: '', including granting the authority for the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) to plan and coordinate employment and training activities with local boards'';

(3) by striking paragraph (3) and inserting the following:

''(3) reviewing and providing comment on the State plans of all one-stop partner programs, where applicable, in order to provide effective strategic leadership in the development of a high quality, comprehensive statewide workforce investment system, including commenting at least once annually on the measures taken pursuant to section 113(b)(3) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2323(b)(3)) and title II of this Act;'';

(4) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(5) by inserting after paragraph (3) the following:

''(4) development and review of statewide policies affecting the coordinated provision of services through the one-stop delivery system described in section 121(e) within the State, including—

''(A) the development of objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers under section 121(g);

''(B) the development of guidance for the allocation of one-stop center infrastructure funds under section 121(h)(1)(B);

''(C) the development of—

''(i) statewide policies relating to the appropriate roles and contributions of one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the one-stop delivery system;

''(ii) statewide strategies for providing effective outreach to individuals, including hard-to-serve populations, and employers who could benefit from services provided through the one-stop delivery system;

''(iii) strategies for technology improvements to facilitate access to services provided through the one-stop delivery system, in remote areas, and for individuals with disabilities, which may be utilized throughout the State; and

''(iv) strategies for the effective coordination of activities between the one-stop delivery system of the State and the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

''(D) identification and dissemination of information on best practices for effective operation of one-stop centers, including use of innovative business outreach, partnerships, and service delivery strategies, including for hard-to-serve populations; and

''(E) conduct of such other matters as may promote statewide objectives for, and enhance the performance of, the one-stop delivery system;'';

(6) in paragraph (5) (as redesignated by paragraph (4)), by inserting ''and the development of statewide criteria to be used by chief elected officials for the appointment of local boards consistent with section 117'' after ''section 116'';

(7) in paragraph (6) (as redesignated by paragraph (4)), by striking ''sections 128(b)(3)(B) and 133(b)(3)(B)'' and inserting ''sections 128(b)(3) and 133(b)(3)(B)'';

(8) in paragraph (9) (as redesignated by paragraph (4))—

(A) by striking ''employment statistics system'' and inserting ''workforce and labor market information system''; and

(B) by striking ''and'' after the semicolon;

(9) in paragraph (10) (as redesignated by paragraph (4))—

(A) by inserting ''section 136(i) and'' before ''section 503''; and

(B) by striking the period and inserting ''; and''; and

(10) by adding at the end the following:

''(11) increasing the availability of skills training, employment opportunities, and career advancement, for hard-to-serve populations.''.

(c) ALTERNATIVE ENTITY.—Section 111(e) (29 U.S.C. 2821(e)) is amended—

(1) in paragraph (1), by striking ''For'' and inserting ''Subject to paragraph (3), for''; and

(2) by adding at the end the following:

''(3) FAILURE TO MEET PERFORMANCE MEASURES.—If a State fails to have performed successfully, as defined in section 116(a)(2), the Secretary may require the State to establish a State board in accordance with subsections (a), (b), and (c) in lieu of the alternative entity established under paragraph (1).''.

(d) CONFLICT OF INTEREST.—Section 111(f)(1) (29 U.S.C. 2821(f)(1)) is amended by inserting ''or participate in action taken on'' after ''vote''.

(e) SUNSHINE PROVISION.—Section 111(g) (29 U.S.C. 2821(g)) is amended—

(1) by inserting '', and modifications to the State plan,'' before ''prior''; and

(2) by inserting '', and modifications to the State plan'' after ''the plan''.

(f) AUTHORITY TO HIRE STAFF.—Section 111 (29 U.S.C. 2821) is amended by adding at the end the following:

''(h) AUTHORITY TO HIRE STAFF.—

''(1) IN GENERAL.—The State board may hire staff to assist in carrying out the functions described in subsection (d) using funds allocated under sections 127(b)(1)(C) and 132(b).

''(2) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the State board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS–15 of the General Schedule as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005.''.

SEC. 113. STATE PLAN.

(a) PLANNING CYCLE.—Section 112(a) (29 U.S.C. 2822(a)) is amended—

(1) by inserting '', or a State unified plan as described in section 501,'' before ''that outlines'';

(2) by striking ''5-year strategy'' and inserting ''4-year strategy''; and

(3) by adding at the end the following: ''At the end of the first 2-year period of the 4-year State plan, the State board shall review and, as needed, amend the 4-year State plan to reflect labor market and economic conditions. In addition, the State shall submit a modification to the State plan at the end of the first 2-year period of the State plan, which may include redesignation of local areas pursuant to section 116(a) and specification of the levels of performance under sections 136 for the third and fourth years of the plan.''.

(b) CONTENTS.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) in paragraph (8)(A)—

(A) in clause (ix), by striking ''and'' after the semicolon; and

(B) by adding at the end the following:

''(xi) programs authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.) (relating to Federal old-age, survivors, and disability insurance benefits), title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to supplemental security income), title XIX of such Act (42 U.S.C. 1396 et seq.) (relating to medicaid), and title XX of such Act (42 U.S.C. 1397 et seq.) (relating to block grants to States for social services), programs authorized under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), and programs carried out by State agencies relating to mental retardation and developmental disabilities; and'';

(2) by striking paragraph (10) and inserting the following:

''(10) a description of how the State will use funds the State received under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, expand resources for the provision of education and training services, and expand the participation of businesses, employees, and individuals in the statewide workforce investment system, including a description of incentives and technical assistance the State will provide to local areas for such purposes;'';

(3) in paragraph (12)(A), by striking ''sections 128(b)(3)(B) and 133(b)(3)(B)'' and inserting ''sections 128(b)(3) and 133(b)(3)(B)'';

(4) in paragraph (14), by striking ''section 134(c)'' and inserting ''section 121(e)'';

(5) in paragraph (15), by striking ''section 116(a)(5)'' and inserting ''section 116(a)(4)'';

(6) in paragraph (17)—

(A) in subparagraph (A)—

(i) in clause (iii)—

(I) by inserting ''local'' before ''customized training''; and

(II) by striking ''and'' at the end;

(ii) in clause (iv), by striking ''(including displaced homemakers),'' and all that follows through ''disabilities)'' and inserting '', hard-to-serve populations, and individuals training for nontraditional employment''; and

(iii) by adding after clause (iv) the following:

''(v) how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities), including the provision of outreach, intake, the conduct of assessments, service delivery, the development of adjustments to performance measures established under section 136, and the training of staff; and''; and

(B) in subparagraph (B), by striking ''and'' at the end;

(7) in paragraph (18)(D)—

(A) by striking ''youth opportunity grants under section 169'' and inserting ''youth challenge grants authorized under section 169 and other federally funded youth programs''; and

(B) by striking the period and inserting a semicolon; and

(8) by adding at the end the following:

''(19) a description of how the State will utilize technology to facilitate access to services in remote areas, which may be utilized throughout the State;

''(20) a description of the State strategy for coordinating workforce investment activities and economic development activities, and promoting entrepreneurial skills training and microenterprise services;

''(21) a description of the State strategy and assistance to be provided for ensuring regional cooperation within the State and across State borders as appropriate;

''(22) a description of how the State will use funds the State receives under this subtitle to—

''(A) implement innovative programs and strategies designed to meet the needs of all

businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliances, career ladder programs, utilization of effective business intermediaries, and other business services and strategies that better engage employers in workforce investment activities and make the statewide workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title; and

''(B) provide incentives and technical assistance to assist local areas in more fully engaging all employers, including small employers, in local workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts to contribute to the economic well-being of the local area, as determined appropriate by the local board;

''(23) a description of the State strategy—

''(A) for ensuring cooperation between transportation providers, including public transportation providers, and providers of workforce investment activities; and

''(B) for ensuring coordination among appropriate State agencies and programs to make available skills training, employment services and opportunities, and career advancement activities, that will assist ex-offenders in reentering the workforce;

''(24) a description of how the State will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at one-stop centers;

''(25) a description of the process and methodology that will be used by the State board to—

''(A) review statewide policies and provide guidance on the coordinated provision of services through the one-stop delivery system described in section 121(e);

''(B) establish, in consultation with chief elected officials and local boards, objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system as described in section 121(g); and

''(C) determine—

''(i) one-stop partner program contributions for the costs of the infrastructure of one-stop centers under section 121(h)(2); and

''(ii) the formula for allocating the funds described in section 121(h)(2) to local areas;

''(26) a description of the State strategy for ensuring that activities carried out under this title are placing men and women in jobs, education, or training that lead to comparable pay; and

''(27) a description of the technical assistance available to one-stop operators and providers of training services for strategies to serve hard-to-serve populations and promote placement in nontraditional employment.''.

(c) MODIFICATIONS TO PLAN.—Section 112(d) (29 U.S.C. 2822(d)) is amended—

(1) by striking ''5-year period'' and inserting ''4-year period''; and

(2) by adding at the end the following: ''In addition, the State shall submit the modifications to the State plan required under subsection (a), under circumstances prescribed by the Secretary that are due to changes in Federal law that significantly affect elements of the State plan.''.

SEC. 114. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) CONSIDERATIONS.—Section 116(a)(1) (29 U.S.C. 2831(a)(1)) is amended—

(A) in subparagraph (A), by striking ''paragraphs (2), (3), and (4)'' and inserting ''paragraphs (2) and (3)''; and

(B) in subparagraph (B), by adding at the end the following:

''(vi) The extent to which such local areas will promote maximum effectiveness in the administration and provision of services.''.

(2) AUTOMATIC DESIGNATION.—Section 116(a)(2) (29 U.S.C. 2831(a)(2)) is amended to read as follows:

''(2) AUTOMATIC DESIGNATION.—

''(A) IN GENERAL.—The Governor shall approve a request for designation as a local area that is submitted prior to the submission of the State plan, or of a modification to the State plan relating to area designation, from any area that—

''(i) is a unit of general local government with a population of 500,000 or more, except that after the initial 2-year period following such designation pursuant to this clause that occurs after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation from such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity;

''(ii) was a local area under this title for the preceding 2-year period, if such local area—

''(I) performed successfully; and

''(II) sustained fiscal integrity;

''(iii) is served by a rural concentrated employment program grant recipient, except that after the initial 2-year period following any such designation under the initial State plan submitted after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity; or

''(iv) was a local area under section 116(a)(2)(C) (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), except that after the initial 2-year period following such designation pursuant to this clause that occurs after that date of enactment, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity.

''(B) DEFINITIONS.—For purposes of this paragraph:

''(i) PERFORMED SUCCESSFULLY.—The term 'performed successfully', when used with respect to a local area, means the local area performed at 80 percent or more of the adjusted level of performance for core indicators of performance described in section 136(b)(2)(A) for 2 consecutive years.

''(ii) SUSTAINED FISCAL INTEGRITY.—The term 'sustained fiscal integrity', used with respect to an area, means that the Secretary has not made a formal determination during the preceding 2-year period that either the grant recipient or the administrative entity of the area misexpended funds provided under this title due to willful disregard of the requirements of the Act involved, gross negligence, or failure to comply with accepted standards of administration.''.

(3) CONFORMING AMENDMENTS.—Section 116(a) (29 U.S.C. 2831(a)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraph (3) and (4), respectively;

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) by striking ''(including temporary designation)''; and

(ii) by striking ''(v)'' and inserting ''(vi)''; and

(D) in paragraph (4) (as redesignated by subparagraph (B))—

(i) by striking ''under paragraph (2) or (3)'' and inserting ''under paragraph (2)''; and

(ii) by striking the second sentence.

(b) SINGLE LOCAL AREA STATES.—Section 116(b) (29 U.S.C. 2831(b)) is amended to read as follows:

''(b) SINGLE LOCAL AREA STATES.—

''(1) CONTINUATION OF PREVIOUS DESIGNATION.—Notwithstanding subsection (a)(2), the Governor of any State that was a single local area for purposes of this title as of July 1, 2004, may continue to designate the State as a single local area for purposes of this title if the Governor identifies the State as a local area in the State plan under section 112(b)(5).

''(2) REDESIGNATION.—The Governor of a State not described in paragraph (1) may designate the State as a single local area if, prior to the submission of the State plan or modification to such plan so designating the State, no local area meeting the requirements for automatic designation under subsection (a)(2) requests such designation as a separate local area.

''(3) EFFECT ON LOCAL PLAN.—In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 118 for the area shall be submitted to the Secretary for approval as part of the State plan under section 112.''.

(c) REGIONAL PLANNING.—Section 116(c) (29 U.S.C. 2831(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PLANNING.—

''(A) IN GENERAL.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State, after consultation with local boards and chief elected officials, may require the local boards for the designated region to prepare, submit, and obtain approval of a single regional plan that incorporates local plans for each of the local areas in the region, as required under section 118. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures pursuant to section 134(a)(2)(B)(iii).

''(B) TECHNICAL ASSISTANCE.—If the State requires regional planning as provided in subparagraph (A), the State shall provide technical assistance and labor market information to such local areas in the designated regions to assist with such regional planning and subsequent service delivery efforts.'';

(2) in paragraph (2), by inserting ''information about the skill requirements of existing and emerging industries and industry clusters,'' after ''information about employment opportunities and trends,''; and

(3) in paragraph (3), by adding at the end the following: ''Such services may be required to be coordinated with regional economic development services and strategies.''.

SEC. 115. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) COMPOSITION.—Section 117(b) (29 U.S.C. 2832(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking subclause (II) and inserting the following:

''(II) collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of businesses, including small businesses, in the local area; and'';

(B) by striking clause (ii) and inserting the following:

''(ii)(I) a superintendent representing the local school districts involved or another high-level official from such districts;

''(II) the president or highest ranking official of an institution of higher education participating in the workforce investment activities in the local area; and

''(III) an administrator of local entities providing adult education and literacy activities in the local area;'';

(C) in clause (iv), by inserting '', hard-to-serve populations,'' after ''disabilities'';

(D) in clause (v), by striking ''and'' at the end; and

(E) by striking clause (vi) and inserting the following:

''(vi) a representative from the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) who is serving the local area; and

''(vii) if the local board does not establish or continue a youth council, representatives with experience serving out-of-school youth, particularly out-of-school youth facing barriers to employment; and''; and

(2) by adding at the end the following:

''(6) SPECIAL RULE.—In the case that there are multiple school districts or institutions of higher education serving a local area, the representatives described in subclause (I) or (II) of paragraph (2)(A)(ii), respectively, shall be appointed from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such agencies or institutions.''.

(b) AUTHORITY OF BOARD MEMBERS.—Section 117(b)(3) (29 U.S.C. 2832(b)(3)) is amended—

(1) in the heading, by inserting ''AND REPRESENTATION'' after ''AUTHORITY''; and

(2) by adding at the end the following: ''The members of the board shall represent diverse geographic sections within the local area.''.

(c) CONFORMING AMENDMENT.—Section 117(c)(1)(C) (29 U.S.C. 2832(c)(1)(C)) is amended by striking ''section 116(a)(2)(B)'' and inserting ''section 116(a)(2)(A)(ii)''.

(d) FUNCTIONS.—Section 117(d) (29 U.S.C. 2832(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

(i) by inserting ''(except as provided in section 123(b))'' after ''basis''; and

(ii) by inserting ''(where appropriate)'' after ''youth council''; and

(B) by adding at the end the following:

''(E) CONSUMER CHOICE REQUIREMENTS.—Consistent with sections 122 and paragraphs (3) and (4) of 134(d), the local board shall work to ensure there are sufficient providers of intensive services and training services serving the local area in a manner that maximizes consumer choice, including providers with expertise in assisting individuals with disabilities.'';

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following:

''(ii) STAFF.—

''(I) IN GENERAL.—The local board may hire staff.

''(II) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the local board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS–15 of the General Schedule, as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005.'';

(3) in paragraph (4), by inserting '', and shall ensure the appropriate use and management of the funds provided under this subtitle for such programs, activities, and system'' after ''area'';

(4) in paragraph (6)—

(A) by striking ''EMPLOYMENT STATISTICS SYSTEM'' and inserting ''WORKFORCE AND LABOR MARKET INFORMATION SYSTEM''; and

(B) by striking ''employment statistics system'' and inserting ''workforce and labor market information system'';

(5) in paragraph (8)—

(A) by inserting '', including small employers,'' after ''private sector employers''; and

(B) by striking the period and inserting '', taking into account the unique needs of small businesses.''; and

(6) by adding at the end the following:

''(9) TECHNOLOGY IMPROVEMENTS.—The local board shall develop strategies for technology improvements to facilitate access to services, in remote areas, for services authorized under this subtitle and carried out in the local area.''.

(e) CONFORMING AMENDMENT.—Section 117(f)(2) (29 U.S.C. 2832(f)(2)) is amended by striking ''described in section 134(c)''.

(f) CONFLICT OF INTEREST.—Section 117(g)(1) (29 U.S.C. 2832(g)(1)) is amended by inserting ''or participate in action taken on'' after ''vote.''

(g) AUTHORITY TO ESTABLISH COUNCILS AND ELIMINATION OF REQUIREMENT FOR YOUTH COUNCILS.—Section 117(h) (29 U.S.C. 2832(h)) is amended to read as follows:

''(h) COUNCILS.—The local board may establish or continue councils to provide information and advice to assist the local board in carrying out activities under this title. Such councils may include—

''(1) a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system involved;

''(2) a youth council composed of experts and stakeholders in youth programs to advise the local board on youth activities; and

''(3) such other councils as the local board determines are appropriate.''.

(h) ALTERNATIVE ENTITY PROVISION.—Section 117(i)(1) (29 U.S.C. 2832(i)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''and paragraphs (1) and (2) of subsection (h),'';

(2) by striking subparagraph (B) and inserting the following:

''(B) was in existence on August 7, 1998, pursuant to State law; and'';

(3) by striking subparagraph (C); and

(4) by redesignating subparagraph (D) as subparagraph (C).

SEC. 116. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(a) (29 U.S.C. 2833(a)) is amended—

(1) by striking ''5-year'' and inserting ''4-year''; and

(2) by adding at the end the following: ''At the end of the first 2-year period of the 4-year plan, the local board shall review and, as needed, amend the 4-year plan to reflect labor market and economic conditions.''.

(b) CONTENTS.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''and'' after the semicolon;

(B) by striking subparagraph (B) and inserting the following:

''(B) a description of how the local board will facilitate access to services provided through the one-stop delivery system involved, in remote areas, including facilitating access through the use of technology; and''; and

(C) by adding at the end the following:

''(C) a description of how the local board will ensure physical and programmatic accessibility for individuals with disabilities at one-stop centers;'';

(2) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(3) by redesignating paragraph (10) as paragraph (16); and

(4) by inserting after paragraph (9) the following:

''(10) a description of how the local board will coordinate workforce investment activities carried out in the local area with economic development activities carried out in the local area, and promote entrepreneurial skills training and microenterprise services;

''(11) a description of the strategies and services that will be initiated in the local area to more fully engage all employers, including small employers, in workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts, which may include the implementation of innovative initiatives such as incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliance initiatives, career ladder programs, utilization of effective business intermediaries, and other business services and strategies designed to meet the needs of area employers and contribute to the economic well-being of the local area, as determined appropriate by the local board, consistent with the objectives of this title;

''(12) a description of how the local board will expand access to education and training services for eligible individuals who are in need of such services through—

''(A) the utilization of programs funded under this title; and

''(B) the increased leveraging of resources other than those provided under this title, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services;

''(13) a description of how the local board will coordinate workforce investment activities carried out in the local area with the provision of transportation, including public transportation, in the local area;

''(14) a description of plans for, assurances concerning, and strategies for maximizing coordination of services provided by the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and services provided in the local area through the one-stop delivery system described in section 121(e), to improve service delivery and avoid duplication of services;

''(15) a description of how the local board will coordinate workforce investment activities carried out in the local area with other Federal, State, and local area education, job training, and economic development programs and activities; and''.

SEC. 117. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—Section 121(b)(1) (29 U.S.C. 2841(b)(1)) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) ROLES AND RESPONSIBILITIES OF ONE-STOP PARTNERS.—Each entity that carries out a program or activities described in subparagraph (B) shall—

''(i) provide access through the one-stop delivery system to the programs and activities carried out by the entity, including making the core services described in section 134(d)(2) that are applicable to the program of the entity available at the one-stop centers (in addition to any other appropriate locations);

''(ii) use a portion of the funds available to the program of the entity to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers in accordance with subsection (h);

''(iii) enter into a local memorandum of understanding with the local board relating

to the operation of the one-stop system that meets the requirements of subsection (c);

''(iv) participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding, the requirements of this title, and the requirements of the Federal laws authorizing the programs carried out by the entity; and

''(v) provide representation on the State board to the extent provided under section 111.'';

(B) in subparagraph (B)—

(i) by striking clause (v);

(ii) by redesignating clauses (vi) through (xii) as clauses (v) through (xi), respectively;

(iii) in clause (x) (as redesignated by clause (ii)), by striking ''and'' at the end;

(iv) in clause (xi) (as redesignated by clause (ii)), by striking the period and inserting ''; and''; and

(v) by adding at the end the following:

''(xii) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C).''; and

(C) by adding at the end the following:

''(C) DETERMINATION BY THE GOVERNOR.—

''(i) IN GENERAL.—An entity that carries out programs referred to in subparagraph (B)(xii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this title unless the Governor of the State provides the notification described in clause (ii).

''(ii) NOTIFICATION.—The notification referred to in clause (i) is a notification that—

''(I) is made in writing of a determination by the Governor not to include such entity in the one-stop partners described in clause (i); and

''(II) is provided to the Secretary and the Secretary of Health and Human Services.''.

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—Section 121(b)(2)(A) (29 U.S.C. 2841(b)(2)(A)) is amended to read as follows:

''(A) IN GENERAL.—With the approval of the local board and chief elected official, in addition to the entities described in paragraph (1), other entities that carry out human resource programs described in subparagraph (B) may be one-stop partners and carry out the responsibilities described in paragraph (1)(A).''.

(B) ADDITIONAL PARTNERS.—Section 121(b)(2)(B) (29 U.S.C. 2841(b)(2)(B)) is amended by striking clauses (i) through (iii) and inserting the following:

''(i) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19);

''(ii) employment and training programs carried out by the Small Business Administration;

''(iii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));''.

(b) LOCAL MEMORANDUM OF UNDERSTANDING.—Section 121(c)(2)(A) (29 U.S.C. 2841(c)(2)(A)) is amended to read as follows:

''(A) provisions describing—

''(i) the services to be provided through the one-stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated through such system;

''(ii) how the costs of such services and the operating costs of such system will be funded, through cash and in-kind contributions, to provide a stable and equitable funding stream for ongoing one-stop system operations, including the funding of the infrastructure costs of one-stop centers in accordance with subsection (h);

''(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;

''(iv) methods to ensure the needs of hard-to-serve populations are addressed in providing access to services through the one-stop system; and

''(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 2-year period to ensure appropriate funding and delivery of services; and''.

(c) CONFORMING AMENDMENT.—Section 121(d)(2) (29 U.S.C. 2841(d)(2)) is amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(d) PROVISION OF SERVICES.—

(1) ELIMINATION OF PROVISIONS CONCERNING ESTABLISHED SYSTEMS.—Section 121 (29 U.S.C. 2841) is amended by striking subsection (e).

(2) REDESIGNATION.—Subtitle B of title I is amended—

(A) in section 134 (29 U.S.C. 2864), by redesignating subsection (c) as subsection (e); and

(B) by transferring that subsection (e) so that the subsection appears after subsection (d) of section 121.

(3) ONE-STOP DELIVERY SYSTEMS.—Paragraph (1) of section 121(e) (29 U.S.C. 2841(e)) (as redesignated by paragraph (2)) is amended—

(A) in subparagraph (A), by striking ''subsection (d)(2)'' and inserting ''section 134(d)(2)'';

(B) in subparagraph (B)—

(i) by striking ''subsection (d)'' and inserting ''section 134(d)'';

(ii) by striking ''individual training accounts'' and inserting ''career scholarship accounts''; and

(iii) by striking ''subsection (d)(4)(G)'' and inserting ''section 134(d)(4)(G)'';

(C) in subparagraph (C), by striking ''subsection (e)'' and inserting ''section 134(e)'';

(D) in subparagraph (D), by striking ''section 121(b)'' and inserting ''subsection (b)''; and

(E) in subparagraph (E), by striking ''information described in section 15'' and inserting ''data, information, and analysis described in section 15(a)''.

(e) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—Section 121 (29 U.S.C. 2841) is amended by adding at the end the following:

''(g) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—

''(1) IN GENERAL.—The State board, in consultation with chief local elected officials and local boards, shall establish objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system.

''(2) CRITERIA.—The procedures and criteria developed under this subsection shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the programs administered by the one-stop partners at the one-stop centers, consistent with the guidelines and guidance provided by the Governor and by the State board, in consultation with the chief elected official and local boards, for such partners' participation under subsections (h)(1)(B) and subsection (i), respectively, and such other factors relating to the quality, accessibility, and effectiveness of the one-stop delivery system as the State board determines to be appropriate.

''(3) LOCAL BOARDS.—Consistent with the criteria developed by the State, the local board may develop additional criteria of higher standards to respond to local labor market and demographic conditions and trends.

''(h) FUNDING OF ONE-STOP INFRASTRUCTURE.—

''(1) IN GENERAL.—

''(A) OPTIONS FOR INFRASTRUCTURE FUNDING.—

''(i) LOCAL OPTIONS.—The local board, chief elected officials, and one-stop partners in a local area may choose to fund the costs of the infrastructure of one-stop centers through—

''(I) methods described in the local memorandum of understanding, if, the local board, chief elected officials, and one-stop partners agree to such methods; or

''(II) the State infrastructure funding mechanism described in paragraph (2).

''(ii) FAILURE TO REACH AGREEMENT ON FUNDING METHODS.—If, as of July 1, 2006, the local board, chief elected officials, and one-stop partners in a local area fail to reach agreement on methods of sufficient funding of the infrastructure costs of one-stop centers, as determined by the local area, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area.

''(B) GUIDANCE FOR INFRASTRUCTURE FUNDING.—In addition to carrying out the requirements relating to the State mechanism for one-stop center infrastructure funding described in paragraph (2), the Governor, after consultation with chief local elected officials, local boards, and the State board, and consistent with the guidelines provided by the State board under subsection (i), shall provide—

''(i) guidelines for State administered one-stop partner programs in determining such programs' contributions to and participation in the one-stop delivery system, including funding for the costs of infrastructure as defined in paragraph (2)(D), negotiated pursuant to the local memorandum of understanding under subsection (c); and

''(ii) guidance to assist local areas in identifying equitable and stable alternative methods of funding of the costs of the infrastructure of one-stop centers in local areas.

''(2) STATE ONE-STOP INFRASTRUCTURE FUNDING.—

''(A) PARTNER CONTRIBUTIONS.—

''(i) IN GENERAL.—Subject to clause (iii), a portion determined under clause (ii) of the Federal funds provided to the State and areas within the State under the Federal laws authorizing the programs described in subsection (b)(1) and administered by one-stop partners for a fiscal year shall be provided to the Governor from such programs to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not funded under the option described in paragraph (1)(A)(i)(I).

''(ii) DETERMINATION OF GOVERNOR.—

''(I) IN GENERAL.—Subject to subclause (II) and clause (iii), the Governor, after consultation with chief local elected officials, local boards, and the State board, shall determine the portion of funds to be provided under clause (i) by each one-stop partner from each program described in clause (i). In making such determination, the Governor shall calculate the proportionate use of the one-stop centers for the purpose of determining funding contributions pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, and the costs of administration for purposes not related to one-stop centers for each partner. The Governor shall exclude from such determination the portion of funds and use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the infrastructure of one-stop centers is funded under the option described in paragraph (1)(A)(i)(I).

''(II) SPECIAL RULE.—In a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the determination described in subclause (I) with respect to the programs authorized under that title and those Acts shall be made by the chief officer of the entity with such authority in consultation with the Governor.

''(III) APPEAL BY ONE-STOP PARTNERS.—The Governor shall establish a procedure for the one-stop partner administering a program described in subsection (b) to appeal a determination regarding the portion of funds to be contributed under this paragraph on the basis that such determination is inconsistent with the criteria described in the State plan or with the requirements of this paragraph. Such procedure shall ensure prompt resolution of the appeal.

''(iii) LIMITATIONS.—

''(I) PROVISION FROM ADMINISTRATIVE FUNDS.—The funds provided under this paragraph by each one-stop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the program limitations with respect to the portion of funds under such program that may be used for administration.

''(II) CAP ON REQUIRED CONTRIBUTIONS.—

''(aa) WIA FORMULA PROGRAMS AND EMPLOYMENT SERVICE.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by the programs authorized under chapters 4 and 5 and under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall not be in excess of 3 percent of the amount of Federal funds provided to carry out each such program in the State for a fiscal year.

''(bb) OTHER ONE-STOP PARTNERS.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by a one-stop partner from a program described in subsection (b)(1) other than the programs described under item (aa) shall not be in excess of 1½ percent of the amount of Federal funds provided to carry out such program in the State for a fiscal year.

''(cc) SPECIAL RULE.—Notwithstanding items (aa) and (bb), an agreement, including a local memorandum of understanding, entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2005 by an entity regarding contributions under this title that permits the percentages described in such items to be exceeded, may continue to be in effect until terminated by the parties.

''(dd) VOCATIONAL REHABILITATION.—Notwithstanding items (aa) and (bb), an entity administering a program under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) shall not be required to provide, for the purposes of this paragraph, an amount in excess of—

''(AA) 0.75 percent of the amount provided for such program in the State for the second program year that begins after the date of enactment of the Workforce Investment Act Amendments of 2005;

''(BB) 1.0 percent of the amount provided for such program in the State for the third program year that begins after such date;

''(CC) 1.25 percent of the amount provided for such program in the State for the fourth program year that begins after such date; and

''(DD) 1.5 percent of the amount provided for such program in the State for the fifth and each succeeding program year that begins after such date.

''(III) FEDERAL DIRECT SPENDING PROGRAMS.—An entity administering a program funded with direct spending as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)) shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined to be equivalent to the cost of the proportionate use of the one-stop centers for such program in the State.

''(IV) NATIVE AMERICAN PROGRAMS.—Native American programs established under section 166 shall not be subject to the provisions of this subsection or subsection (i). The method for determining the appropriate portion of funds to be provided by such Native American programs to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.

''(B) ALLOCATION BY GOVERNOR.—From the funds provided under subparagraph (A), the Governor shall allocate the funds to local areas in accordance with the formula established under subparagraph (C) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

''(C) ALLOCATION FORMULA.—The State board shall develop a formula to be used by the Governor to allocate the funds provided under subparagraph (A) to local areas not funding infrastructure costs under the option described in paragraph (1)(A)(i)(I). The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of such centers that the State board determines are appropriate.

''(D) COSTS OF INFRASTRUCTURE.—In this subsection, the term 'costs of infrastructure', used with respect to a one-stop center, means the nonpersonnel costs that are necessary for the general operation of the one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including assessment-related products and adaptive technology for individuals with disabilities), and technology to facilitate remote access to the one-stop center's strategic planning activities, and common outreach activities.

''(i) OTHER FUNDS.—

''(1) IN GENERAL.—Subject to the memorandum of understanding described in subsection (c) for the one-stop delivery system involved, in addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the programs described in subsection (b) and administered by one-stop partners, or the noncash resources available under such programs, shall be used to pay the additional costs relating to the operation of the one-stop delivery system that are not paid from the funds provided under subsection (h), as determined in accordance with paragraph (2), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of core services described in section 134(d)(2) applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

''(2) DETERMINATION AND GUIDANCE.—The method for determining the appropriate portion of funds and noncash resources to be provided by each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination of an appropriate allocation of the funds and noncash resources in local areas.''.

SEC. 118. ELIGIBLE PROVIDERS OF TRAINING SERVICES.

Section 122 (29 U.S.C. 2842) is amended to read as follows:

''SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—The Governor, after consultation with the State board, shall establish criteria and procedures regarding the eligibility of providers of training services described in section 134(d)(4) (referred to in this section as 'training services') to receive funds provided under section 133(b) for the provision of training services.

''(2) PROVIDERS.—Subject to the provisions of this section, to be eligible to receive the funds provided under section 133(b) for the provision of training services, the provider shall be—

''(A) a postsecondary educational institution that—

''(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

''(ii) provides a program that leads to an associate degree, baccalaureate degree, or industry-recognized certification;

''(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

''(C) another public or private provider of a program of training services.

''(3) INCLUSION IN LIST OF ELIGIBLE PROVIDERS.—A provider described in subparagraph (A) or (C) of paragraph (2) shall comply with the criteria and procedures established under this section to be included on the list of eligible providers of training services described in subsection (d)(1). A provider described in paragraph (2)(B) shall be included on the list of eligible providers of training services described in subsection (d)(1) for so long as the provider remains certified by the Department of Labor to carry out the programs described in paragraph (2)(B).

''(b) CRITERIA.—

''(1) IN GENERAL.—The criteria established by the Governor pursuant to subsection (a) shall take into account—

''(A) the performance of providers of training services with respect to the performance measures and other matters for which information is required under paragraph (2) and other appropriate measures of performance outcomes for those participants receiving training services under this subtitle (taking into consideration the characteristics of the population served and relevant economic conditions);

''(B) the need to ensure access to training services throughout the State, including any rural areas;

''(C) the information such providers are required to report to State agencies with respect to Federal and State programs (other than the program carried out under this subtitle), including one-stop partner programs;

''(D) the requirements for State licensing of providers of training services, and the licensing status of each provider of training services if applicable;

''(E) to the extent practicable, encouraging the use of industry-recognized standards and certification;

''(F) the ability of the providers to offer programs that lead to a degree or an industry-recognized certification;

''(G) the ability to provide training services to hard-to-serve populations, including individuals with disabilities; and

''(H) such other factors as the Governor determines are appropriate to ensure—

''(i) the quality of services provided;

''(ii) the accountability of the providers;

''(iii) that the one-stop centers in the State will ensure that such providers meet the needs of local employers and participants;

''(iv) the informed choice of participants under chapter 5; and

''(v) that the collection of information required is not unduly burdensome or costly to providers.

''(2) INFORMATION.—The criteria established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State for purposes of carrying out subsection (d), with respect to participants receiving training services under this subtitle in the applicable program, including—

''(A) information on degrees and industry-recognized certifications received by such participants;

''(B) information on costs of attendance for such participants;

''(C) information on the program completion rate for such participants; and

''(D) information on the performance of the provider with respect to the performance measures described in section 136 for such participants (taking into consideration the characteristics of the population served and relevant economic conditions), which may include information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program.

''(3) RENEWAL.—The criteria established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services.

''(4) LOCAL CRITERIA.—A local board in the State may establish criteria in addition to the criteria established by the Governor, or may require higher levels of performance than required under the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) to provide the services in the local area involved.

''(5) INFORMATION TO ESTABLISH INITIAL ELIGIBILITY.—

''(A) IN GENERAL.—In an effort to provide the highest-quality training services and responsiveness to new and emerging industries, providers may seek initial eligibility under this section as providers of training services. The criteria established by the Governor shall require that a provider who has not previously been an eligible provider of training services under this section provide the information described in subparagraph (B).

''(B) INFORMATION.—The provider shall provide verifiable program-specific performance information supporting the provider's ability to serve participants under this subtitle. The information provided under this subparagraph may include information on outcome measures such as job placement and wage increases for individuals participating in the program, information on business partnerships and other factors that indicate high-quality training services, and information on alignment with industries targeted for potential employment opportunities.

''(C) PROVISION.—The provider shall provide the information described in subparagraph (B) to the Governor and the local boards in a manner that will permit the Governor and the local boards to make a decision on inclusion of the provider on the list of eligible providers described in subsection (d).

''(c) PROCEDURES.—The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds provided under section 133(b) for the provision of training services, and identify the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of such eligibility based on the criteria established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section, that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.

''(d) INFORMATION TO ASSIST PARTICIPANTS IN CHOOSING PROVIDERS.—In order to facilitate and assist participants in choosing employment and training activities under chapter 5 and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section in the State, accompanied by appropriate information, is provided to the one-stop delivery system in the State. The accompanying information shall consist of information provided by providers described in subparagraphs (A) and (C) of subsection (a)(2) in accordance with subsection (b) (including information on receipt of degrees and industry-recognized certifications, and costs of attendance, for participants receiving training services under this subtitle in applicable programs) and such other information as the Secretary determines is appropriate. The list and the accompanying information shall be made available to such participants and to members of the public through the one-stop delivery system in the State.

''(e) ENFORCEMENT.—

''(1) IN GENERAL.—The criteria and procedures established under this section shall provide the following:

''(A) INTENTIONALLY SUPPLYING INACCURATE INFORMATION.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services, or individual providing information on behalf of the provider, intentionally supplied inaccurate information under this section, the eligibility of such provider to receive funds under chapter 5 shall be terminated for a period of time that is not less than 2 years.

''(B) SUBSTANTIAL VIOLATIONS.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services substantially violated any requirement under this title, the eligibility of such provider to receive funds under the program involved may be terminated, or other appropriate action may be taken.

''(C) REPAYMENT.—A provider of training services whose eligibility is terminated under subparagraph (A) or (B) shall be liable for the repayment of funds received under chapter 5 during a period of noncompliance described in such subparagraph.

''(2) CONSTRUCTION.—Paragraph (1) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

''(f) AGREEMENTS WITH OTHER STATES.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept career scholarship accounts provided in another State.

''(g) OPPORTUNITY TO SUBMIT COMMENTS.—In establishing criteria, procedures, requirements for information, and the list of eligible providers described in subsection (d)(1), the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, procedures, requirements for information, and list.

''(h) TRANSITION PERIOD FOR IMPLEMENTATION.—The requirements of this section shall be implemented not later than December 31, 2006. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers eligible to provide training services under chapter 5 as such chapter was in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005 may continue to be eligible to provide such services until December 31, 2006, or until such earlier date as the Governor determines to be appropriate.

''(i) ON-THE-JOB TRAINING, CUSTOMIZED TRAINING, OR INCUMBENT WORKER TRAINING EXCEPTION.—

''(1) IN GENERAL.—Providers of on-the-job training, customized training, or incumbent worker training shall not be subject to the requirements of subsections (a) through (h).

''(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop operator in a local area shall collect such performance information from providers of on-the-job training, customized training, and incumbent worker training as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.''.

SEC. 119. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

Section 123 (29 U.S.C. 2843) is amended to read as follows:

''SEC. 123. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

''(a) IN GENERAL.—From the funds allocated under section 128(b) to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan described in section 112 and shall conduct oversight with respect to such providers.

''(b) EXCEPTIONS.—A local board may award grants or contracts on a sole-source basis if such board determines there is an insufficient number of eligible providers of youth activities in the local area involved (such as a rural area) for grants and contracts to be awarded on a competitive basis under subsection (a).''.

SEC. 120. YOUTH ACTIVITIES.

(a) STATE ALLOTMENTS.—Section 127 (29 U.S.C. 2852) is amended—

(1) in subsection (a)(1), by striking ''opportunity'' and inserting ''challenge''; and

(2) by striking subsection (b) and inserting the following:

''(b) ALLOTMENT AMONG STATES.—

''(1) YOUTH ACTIVITIES.—

''(A) YOUTH CHALLENGE GRANTS AND YOUTH ACTIVITIES FOR FARMWORKERS AND NATIVE AMERICANS.—

''(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 137(a) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth activities under section 167 (relating to migrant and seasonal farmworker programs) and provide youth challenge grants and other activities under section 169 (relating to youth challenge grants).

''(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

''(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

''(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

''(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—For a fiscal year described in clause (i), the Secretary shall reserve the greater of $10,000,000 or 4 percent of the portion described in clause (i) for a fiscal year to provide youth activities under section 167. For a fiscal year not described in clause (i), the Secretary shall reserve $10,000,000 of the amount appropriated under section 137(a) to provide youth activities under section 167.

''(iv) YOUTH ACTIVITIES FOR NATIVE AMERICANS.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under clause (i) or (iii), the Secretary shall reserve not more than 1½ percent of such appropriated amount to provide youth activities under section 166 (relating to Native Americans).

''(B) OUTLYING AREAS.—

''(i) IN GENERAL.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under subparagraph (A), the Secretary shall reserve not more than ¼ of 1 percent of the appropriated amount to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities.

''(ii) LIMITATION FOR FREELY ASSOCIATED STATES.—

''(I) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

''(II) AWARD BASIS.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(III) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

''(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

''(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

''(cc) such other information and assurances as the Secretary may require.

''(IV) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

''(iii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

''(C) STATES.—

''(i) IN GENERAL.—From the remainder of the amount appropriated under section 137(a) for a fiscal year that exists after the Secretary determines the amounts to be reserved under subparagraphs (A) and (B), the Secretary shall allot to the States—

''(I) an amount of the remainder that is less than or equal to the total amount that was allotted to States for fiscal year 2005 under section 127(b)(1)(C) of this Act (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), in accordance with the requirements of such section 127(b)(1)(C); and

''(II) the amount of the remainder, if any, in excess of the amount referred to in subclause (I), in accordance with clause (ii).

''(ii) FORMULA.—Subject to clauses (iii) and (iv), of the amount described in clause (i)(II)—

''(I) 33⅓ percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each State, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all States;

''(II) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States; and

''(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each State, compared to the total number of disadvantaged youth who are ages 16 through 21 in all States.

''(iii) MINIMUM AND MAXIMUM PERCENTAGES.—

''(I) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

''(II) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

''(iv) SMALL STATE MINIMUM ALLOTMENT.—Subject to clause (iii), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

''(I) 3/10 of 1 percent of $1,000,000,000 of the remainder described in clause (i) for the fiscal year; and

''(II) if the remainder described in clause (i) for the fiscal year exceeds $1,000,000,000, 2/5 of 1 percent of the excess.

''(2) DEFINITIONS.—For the purposes of paragraph (1):

''(A) ALLOTMENT PERCENTAGE.—The term 'allotment percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received by the State involved through an allotment made under this subsection for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the State involved for fiscal year 2005.

''(B) DISADVANTAGED YOUTH.—Subject to paragraph (3), the term 'disadvantaged youth' means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

''(i) the poverty line; or

''(ii) 70 percent of the lower living standard income level.

''(C) FREELY ASSOCIATED STATE.—The term 'Freely Associated State' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(3) SPECIAL RULE.—For purposes of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.''.

(b) REALLOTMENT.—

(1) AMENDMENT.—Section 127(c) (29 U.S.C. 2852(c)) is amended—

(A) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallotment for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under this section during such prior program year (including amounts allotted to the State in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the State under this section during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years that remained available); and

''(B) the accrued expenditures during such prior program year.'';

(B) in paragraph (3)—

(i) by striking ''for the prior program year'' and inserting ''for the program year for which the determination is made''; and

(ii) by striking ''such prior program year'' and inserting ''such program year'';

(C) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that does not have an amount available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.''; and

(D) in paragraph (5), by striking ''obligation'' and inserting ''accrued expenditure''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect for the program year that begins after the date of enactment of this Act.

(c) WITHIN STATE ALLOCATIONS.—

(1) RESERVATION FOR STATEWIDE ACTIVITIES.—Section 128(a) (29 U.S.C. 2853(a)) is amended to read as follows:

''(a) RESERVATIONS FOR STATEWIDE ACTIVITIES.—

''(1) IN GENERAL.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

''(2) USE OF FUNDS.—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide activities under section 129(b) or statewide employment and training activities, for adults or dislocated workers, under section 134(a).''.

(2) WITHIN STATE ALLOCATION.—Section 128(b) (29 U.S.C. 2853(b)) is amended to read as follows:

''(b) WITHIN STATE ALLOCATIONS.—

''(1) IN GENERAL.—Of the amount allotted to the State under section 127(b)(1)(C) and not reserved under subsection (a)(1)—

''(A) a portion equal to not less than 80 percent of such amount shall be allocated by the Governor to local areas in accordance with paragraph (2); and

''(B) a portion equal to not more than 20 percent of such amount may be allocated by the Governor to local areas in accordance with paragraph (3).

''(2) ESTABLISHED FORMULA.—

''(A) IN GENERAL.—Of the portion described in paragraph (1)(A), the Governor shall allocate—

''(i) 33⅓ percent on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each local area, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all local areas in the State;

''(ii) 33⅓ percent on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State; and

''(iii) 33⅓ percent on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each local area, compared to the total number of disadvantaged youth who are ages 16 through 21 in all local areas in the State.

''(B) MINIMUM AND MAXIMUM PERCENTAGES.—

''(i) MINIMUM PERCENTAGE.—The Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is less than 90 percent of the allocation percentage of the local area for the preceding fiscal year.

''(ii) MAXIMUM PERCENTAGE.—Subject to clause (i), the Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is more than 130 percent of the allocation percentage of the local area for the preceding fiscal year.

''(C) DEFINITIONS.—In this paragraph:

''(i) ALLOCATION PERCENTAGE.—The term 'allocation percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the portion described in paragraph (1)(A) that is received by the local area involved through an allocation made under this paragraph for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the local area involved for fiscal year 2005.

''(ii) DISADVANTAGED YOUTH.—The term 'disadvantaged youth' means an individual who—

''(I) is age 16 through 21;

''(II) is not a college student or member of the Armed Forces; and

''(III) received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

''(aa) the poverty line; or

''(bb) 70 percent of the lower living standard income level.

''(3) YOUTH DISCRETIONARY ALLOCATION.—The Governor may allocate the portion described in paragraph (1)(B) to local areas where there are a significant number of eligible youth, after consultation with the State board and local boards.

''(4) LOCAL ADMINISTRATIVE COST LIMIT.—

''(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board involved for the administrative costs of carrying out local workforce investment activities under this chapter or chapter 5.

''(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 5, regardless of whether the funds were allocated under this subsection or section 133(b).''.

(3) REALLOCATION.—

(A) AMENDMENT.—Section 128(c) (29 U.S.C. 2853(c)) is amended—

(i) in paragraph (1), by striking ''paragraph (2)(A) or (3) of'';

(ii) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under this section during such prior program year (including amounts allocated to the local area in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and

''(B) the accrued expenditures during such prior program year.'';

(iii) by amending paragraph (3)—

(I) by striking ''subsection (b)(3)'' each place it appears and inserting ''subsection (b)'';

(II) by striking ''for the prior program year'' the first place it appears and inserting ''for the program year for which the determination is made'';

(III) by striking ''such prior program year'' and inserting ''such program year''; and

(IV) by striking the last sentence; and

(iv) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect for the later of—

(i) the program year that begins after the date of enactment of this Act; or

(ii) program year 2006.

(d) YOUTH PARTICIPANT ELIGIBILITY.—Section 129(a) (29 U.S.C. 2854(a)) is amended to read as follows:

''(a) YOUTH PARTICIPANT ELIGIBILITY.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible to participate in activities carried out under this chapter during any program year an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

''(B) OUT-OF-SCHOOL YOUTH.—In this title the term 'out-of-school youth' means an individual who is—

''(i) not younger than age 16 nor older than age 21; and

''(ii) one of the following:

''(I) A school dropout.

''(II) A youth who is within the age for compulsory school attendance, but has not attended school for at least 1 school year calendar quarter.

''(III) A recipient of a secondary school diploma or its equivalent who is—

''(aa) deficient in basic skills, including limited English proficiency;

''(bb) a low-income individual; and

''(cc) not attending any school.

''(IV) Subject to the juvenile or adult justice system or ordered by a court to an alternative school.

''(V) A low-income individual who is pregnant or parenting and not attending any school.

''(VI) A youth who is not attending school or a youth attending an alternative school, who is homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

''(VII) A low-income individual who is not attending school and requires additional assistance to enter or complete an educational program or to secure or hold employment.

''(C) IN-SCHOOL YOUTH.—In this section the term 'in-school youth' means an individual who is—

''(i) not younger than age 14 nor older than age 21;

''(ii) a low-income individual; and

''(iii) one or more of the following:

''(I) Deficient in basic literacy skills, including limited English proficiency.

''(II) Homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

''(III) Pregnant or parenting.

''(IV) An offender (other than an individual described in subparagraph (B)(ii)(IV)).

''(V) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

''(2) EXCEPTION.—Not more than 5 percent of the individuals assisted under this section in each local area, in the case of individuals for whom low income is a requirement for eligibility under this section, may be individuals who are not low income.

''(3) LIMITATIONS ON ACTIVITIES FOR IN-SCHOOL YOUTH.—

''(A) IN GENERAL.—For any program year, not more than 60 percent of the funds available for statewide activities under subsection (b), and not more than 60 percent of funds available to local areas under subsection (c), may be used to provide activities for in-school youth meeting the requirements of paragraph (1)(B).

''(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may increase the percentage described in subparagraph (A) for a local area in the State, if—

''(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to use at least 40 percent of the funds available for activities under subsection (b) or (c) to serve out-of-school youth due to a low number of out-of-school youth; and

''(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed increased percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

''(II) the request is approved by the Secretary.

''(4) CONSISTENCY WITH COMPULSORY SCHOOL ATTENDANCE LAWS.—In providing assistance under this section to an individual who is required to attend school under applicable State compulsory school attendance laws, the priority in providing such assistance shall be for the individual to attend school regularly.''.

(e) STATEWIDE ACTIVITIES.—Section 129(b) (29 U.S.C. 2854(b)) is amended to read as follows:

''(b) STATEWIDE ACTIVITIES.—

''(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1) shall be used, regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or under paragraph (1)(B) or (2)(B) of section 132(b) for statewide activities, which may include—

''(A) conducting—

''(i) evaluations under section 136(e) of activities authorized under this chapter and

chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

''(ii) research; and

''(iii) demonstration projects;

''(B) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated region as described in section 116(c)), for local coordination of activities carried out under this title, and for performance by local areas as described in section 136(i)(2);

''(C) providing technical assistance and capacity building activities to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), and the provision of technology to facilitate remote access to services provided through the one-stop delivery system in the State;

''(D) operating a fiscal and management accountability information system under section 136(f);

''(E) carrying out monitoring and oversight of activities carried out under this chapter and chapter 5, which may include a review comparing the services provided to male and female youth;

''(F) providing additional assistance to local areas that have high concentrations of eligible youth;

''(G) supporting the development of alternative programs and other activities that enhance the choices available to eligible youth and encourage such youth to reenter secondary education, enroll in postsecondary education and advanced training, and obtain career path employment;

''(H) supporting the provision of core services described in section 134(d)(2) in the one-stop delivery system in the State; and

''(I) supporting financial literacy, including—

''(i) supporting the ability to create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

''(ii) supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;

''(iii) increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

''(iv) supporting the ability to ascertain fair and favorable credit terms;

''(v) supporting the ability to avoid abusive, predatory, or deceptive credit offers and financial products;

''(vi) supporting the ability to understand, evaluate, and compare financial products, services, and opportunities;

''(vii) supporting the ability to understand resources that are easily accessible and affordable, and that inform and educate an investor as to the investor's rights and avenues of recourse when the investor believes the investor's rights have been violated by unprofessional conduct of market intermediaries;

''(viii) increasing awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improving the development and distribution of multilingual financial literacy and education materials;

''(ix) promoting bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining accounts with financial institutions; and

''(x) improving financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

''(2) LIMITATION.—Not more than 5 percent of the funds allotted to a State under section 127(b)(1)(C) shall be used by the State for administrative activities carried out under this subsection or section 134(a).

''(3) PROHIBITION.—No funds described in this subsection may be used to develop or implement education curricula for school systems in the State.''.

(f) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Section 129(c)(1) (29 U.S.C. 2854(c)(1)) is amended—

(A) in the matter that precedes subparagraph (A), by striking ''paragraph (2)(A) or (3), as appropriate, of'';

(B) in subparagraph (B), by inserting ''are directly linked to 1 or more of the performance measures relating to this chapter under section 136, and that'' after ''for each participant that''; and

(C) in subparagraph (C)—

(i) by redesignating clauses (i) through (iv) as clauses (ii) through (v), respectively;

(ii) by inserting before clause (ii) (as redesignated by clause (i)) the following:

''(i) activities leading to the attainment of a secondary school diploma or its equivalent, or another recognized credential;'';

(iii) in clause (ii) (as redesignated by clause (i)), by inserting ''and advanced training'' after ''opportunities'';

(iv) in clause (iii) (as redesignated by clause (i))—

(I) by inserting ''instruction based on State academic content and student academic achievement standards established under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311)'' after ''academic''; and

(II) by inserting ''that lead to the attainment of recognized credentials'' after ''learning''; and

(v) by striking clause (v) (as redesignated by clause (i)) and inserting the following:

''(v) effective connections to all employers, including small employers, in sectors of the local and regional labor markets that are experiencing high growth in employment opportunities.''.

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking ''secondary school, including dropout prevention strategies'' and inserting ''the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative standards for individuals with disabilities) or for another recognized credential, including dropout prevention strategies'';

(B) in subparagraph (B), by inserting '', with a priority on exposing youth to technology and nontraditional jobs'' before the semicolon;

(C) in subparagraph (F), by striking ''during nonschool hours'';

(D) in subparagraph (I), by striking ''and'' at the end;

(E) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(K) on-the-job training opportunities;

''(L) opportunities to acquire financial literacy skills;

''(M) entrepreneurial skills training and microenterprise services; and

''(N) information about average wages for a range of jobs available in the local area, including technology jobs.''.

(3) ADDITIONAL REQUIREMENTS.—Section 129(c)(3)(A) (29 U.S.C. 2854(c)(3)(A)) is amended in the matter preceding clause (i) by striking ''or applicant who meets the minimum income criteria to be considered an eligible youth''.

(4) PRIORITY AND EXCEPTIONS.—Section 129(c) (29 U.S.C. 2854(c)) is amended by striking paragraphs (4) and (5).

(5) PROHIBITIONS AND LINKAGES.—Section 129(c) (29 U.S.C. 2854(c)), as amended by paragraph (4), is further amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively;

(B) in paragraph (4) (as redesignated by subparagraph (A))—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(C) in paragraph (5) (as redesignated by subparagraph (A)), by striking ''youth councils'' and inserting ''local boards''.

SEC. 121. ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.

(a) STATE ALLOTMENTS.—

(1) RESERVATIONS.—Section 132(a)(2)(A) (29 U.S.C. 2862 (a)(2)(A)) is amended by striking ''national emergency grants, other than under subsection (a)(4), (f), and (g)'' and inserting ''national dislocated worker grants, other than under paragraph (4) or (5) of subsection (a), subsection (e), and subsection (f)''.

(2) ALLOTMENT AMONG STATES.—Section 132(b) (29 U.S.C. 2862(b)) is amended—

(A) in paragraph (1)(A)(ii), by striking ''section 127(b)(1)(B),'' and all that follows and inserting ''section 127(b)(1)(B).'';

(B) by striking paragraph (1)(B)(ii) and inserting the following:

''(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

''(I) 40 percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

''(II) 25 percent shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, compared to the total number of such individuals in all States; and

''(III) 35 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).'';

(C) in paragraph (1)(B)—

(i) in clause (iii), by striking ''section 116(a)(2)(B)'' and inserting ''section 116(a)(2)(A)(iii)'';

(ii) in clause (iv)—

(I) in subclause (I)—

(aa) by striking ''Subject to subclause (IV), the'' and inserting ''The''; and

(bb) by striking ''than the greater of'' and all that follows and inserting ''than an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year.'';

(II) in subclause (II), by striking ''subclauses (I), (III), and (IV)'' and inserting ''subclauses (I) and (III)''; and

(III) by striking subclause (IV); and

(iii) in clause (v), by striking subclause (VI); and

(D) in paragraph (2)(A)(ii), by striking ''section 127(b)(1)(B)'' and all that follows and inserting ''section 127(b)(1)(B).''.

(3) REALLOTMENT.—Section 132(c) (29 U.S.C. 2862(c)) is amended—

(A) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallotment for a program year for programs

funded under subsection (b)(1)(B) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year (including amounts allotted to the State in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years under such provisions that remained available); and

''(B) the accrued expenditures from such total amount of funds available under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year.'';

(B) in paragraph (3)—

(i) by striking ''under this section for such activities for the prior program year'' and inserting ''under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for the program year for which the determination is made''; and

(ii) by striking ''under this section for such activities for such prior program year'' and inserting ''under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year'';

(C) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means—

''(A) with respect to funds allotted under subsection (b)(1)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

''(B) with respect to funds allotted under subsection (b)(2)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.''; and

(D) in paragraph (5), by striking ''obligation'' and inserting ''accrued expenditure''.

(4) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(b) WITHIN STATE ALLOCATIONS.—

(1) ALLOCATION.—Section 133(b)(2)(A)(i) (29 U.S.C. 2863(b)(2)(A)(i)) is amended—

(A) in subclause (I), by striking ''33⅓ percent'' and inserting ''40 percent'';

(B) in subclause (II), by striking ''33⅓ percent'' and inserting ''25 percent''; and

(C) in subclause (III), by striking ''33⅓ percent'' and inserting ''35 percent''.

(2) TRANSFER AUTHORITY.—Section 133(b)(4) (29 U.S.C. 2863(b)(4)) is amended by striking ''20 percent'' each place it appears and inserting ''45 percent''.

(3) REQUIREMENTS.—Clauses (i) and (ii) of section 133(b)(5)(B) (29 U.S.C. 2863(b)(5)(B)) are amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(4) REALLOCATION.—Section 133(c) (29 U.S.C. 2863(c)) is amended—

(A) in paragraph (1), by inserting '', and under subsection (b)(2)(B) for dislocated worker employment and training activities,'' after ''activities'';

(B) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallocation for a program year for programs funded under paragraphs (2)(A) and (3) of subsection (b) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year (including amounts allocated to the local area in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the local area in all prior program years under such provisions that remained available); and

''(B) the accrued expenditures from such total amount of funds available under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year.'';

(C) by striking paragraph (3) and inserting the following:

''(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State—

''(A) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under paragraphs (2)(A) or (3) of subsection (b), an amount based on the relative amount allocated to such local area under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for such program year; and

''(B) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under subsection (b)(2)(B), an amount based on the relative amount allocated to such local area under subsection (b)(2)(B) for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under subsection (b)(2)(B) for such program year.''; and

(D) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means—

''(A) with respect to funds allocated under paragraphs (2)(A) or (3) of subsection (b), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

''(B) with respect to funds allocated under subsection (b)(2)(B), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.''.

(5) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(c) USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—Section 134(a)(2)(A) (29 U.S.C. 2864(a)(2)(A)) is amended to read as follows:

''(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—

''(i) IN GENERAL.—A State shall carry out statewide rapid response activities using funds reserved by a Governor for a State under section 133(a)(2). Such activities shall include—

''(I) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials for the local areas; and

''(II) provision of additional assistance to local areas that experience disasters, mass layoffs, or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials for the local areas.

''(ii) USE OF UNEXPENDED FUNDS.—Funds reserved under section 133(a)(2) to carry out this subparagraph that remain unexpended after the first program year for which such funds were allotted may be used by the Governor to carry out statewide activities authorized under subparagraph (B) and paragraph (3)(A) in addition to activities under this subparagraph.''.

(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2) (29 U.S.C. 2864(a)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 127(b)(1)(C) or paragraphs (1)(B) or (2)(B) of section 132(b)) shall be used for statewide employment and training activities, including—

''(i) disseminating—

''(I) the State list of eligible providers of training services, including eligible providers of nontraditional training services and eligible providers of apprenticeship programs described in section 122(a)(2)(B);

''(II) information identifying eligible providers of on-the-job training, customized training, and incumbent worker training;

''(III) information on effective business outreach, partnerships, and services;

''(IV) performance information and information on costs of attendance, as described in subsections (d) and (i) of section 122; and

''(V) information on physical and programmatic accessibility for individuals with disabilities;

''(ii) conducting evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

''(iii) providing incentive grants to local areas, in accordance with section 136(i);

''(iv) developing strategies for ensuring that activities carried out under this section are placing men and women in jobs, education, and training that lead to comparable pay;

''(v) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), which may include

the development and training of staff to provide opportunities for hard-to-serve populations to enter high-wage, high-skilled, and nontraditional occupations;

''(vi) operating a fiscal and management accountability system under section 136(f); and

''(vii) carrying out monitoring and oversight of activities carried out under this chapter and chapter 4.''.

(C) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(3)(A) (29 U.S.C. 2864(a)(3)(A) is amended to read as follows:

''(A) IN GENERAL.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) or (2)(B) (regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or paragraph (1)(B) or (2)(B) of section 132(b)) may be used to carry out additional statewide employment and training activities, which may include—

''(i) implementing innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneurial training and support programs, utilization of effective business intermediaries, activities to improve linkages between the one-stop delivery system in the State and all employers (including small employers) in the State, and other business services and strategies that better engage employers in workforce investment activities and make the workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title;

''(ii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners;

''(iii) implementing innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

''(iv) implementing programs to increase the number of individuals training for and placed in nontraditional employment;

''(v) carrying out activities to facilitate remote access to services, including training services described in subsection (d)(4), provided through a one-stop delivery system, including facilitating access through the use of technology;

''(vi) supporting the provision of core services described in subsection (d)(2) in the one-stop delivery system in the State;

''(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677);

''(viii) activities—

''(I) to improve coordination between workforce investment activities carried out within the State involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services;

''(II) to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

''(III) to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

''(IV) to improve coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a);

''(V) to develop and disseminate workforce and labor market information;

''(VI) to improve coordination with the corrections system to facilitate provision of training services and employment opportunities that will assist ex-offenders in reentering the workforce; and

''(VII) to promote financial literacy, including carrying out activities described in section 129(b)(1)(I);

''(ix) conducting—

''(I) research; and

''(II) demonstration projects; and

''(x) adopting, calculating, or commissioning a minimum self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.''.

(2) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) ALLOCATED FUNDS.—Section 134(d)(1)(A) (29 U.S.C. 2864(d)(1)(A)) is amended—

(i) in clause (i), by striking ''described in subsection (c)'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) in clause (iv), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(v) to designate a dedicated business liaison in the local area who may be funded with funds provided under this title or from other sources to establish and develop relationships and networks with large and small employers and their intermediaries; and

''(vi) in order to improve service delivery to avoid duplication of services and enhance coordination of services, to require the colocation of employment services provided under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) at the one-stop centers.''.

(B) CORE SERVICES.—Section 134(d)(2) (29 U.S.C. 2864(d)(2)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)'';

(ii) in subparagraph (C), by inserting ''(including literacy, numeracy, and English language proficiency)'' after ''skill levels'';

(iii) by striking subparagraph (D) and inserting the following:

''(D) labor exchange services, including—

''(i) job search and placement assistance and, in appropriate cases, career counseling, including—

''(I) exposure to high wage, high skill jobs; and

''(II) nontraditional employment; and

''(ii) appropriate recruitment and other business services for all employers, including small employers, in the local area, which may include services described in this subsection, including information and referral to specialized business services not traditionally offered through the one-stop delivery system;'';

(iv) in subparagraph (E)(iii)—

(I) by inserting '', career ladders,'' after ''earnings''; and

(II) by striking ''and'' at the end;

(v) in subparagraph (F)—

(I) by striking ''and program cost information''; and

(II) by striking ''described in section 123'';

(vi) by striking subparagraph (H) and inserting the following:

''(H) provision of accurate information, in formats that are usable and understandable to all one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area, and referral to such services or assistance as appropriate;''; and

(vii) in subparagraph (J), by striking ''for—'' and all that follows through ''(ii) programs'' and inserting ''for programs''.

(C) INTENSIVE SERVICES.—Section 134(d)(3) (29 U.S.C. 2864(d)(3)) is amended—

(i) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

''(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

''(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

''(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or

''(II) who are employed, but who, after an interview, evaluation, or assessment are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

''(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.''; and

(ii) in subparagraph (C)—

(I) in clause (v), by striking ''for participants seeking training services under paragraph (4)''; and

(II) by adding at the end the following:

''(vii) Internships and work experience.

''(viii) Literacy activities relating to basic work readiness.

''(ix) Financial literacy services, such as activities described in section 129(b)(1)(I).

''(x) Out-of-area job search assistance and relocation assistance.

''(xi) English language acquisition and integrated training programs.''.

(D) TRAINING SERVICES.—Section 134(d)(4) (29 U.S.C. 2864(d)(4)) is amended—

(i) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to

provide training services to adults and dislocated workers, respectively—

''(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

''(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

''(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

''(cc) have the skills and qualifications to successfully participate in the selected program of training services;

''(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

''(III) who meet the requirements of subparagraph (B); and

''(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

''(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.'';

(ii) in subparagraph (B)(i), by striking ''Except'' and inserting ''Notwithstanding section 479B of the Higher Education Act of 1965 (20 U.S.C. 1087uu) and except'';

(iii) in subparagraph (D)—

(I) in clause (viii), by striking ''and'' after the semicolon;

(II) in clause (ix), by striking the period and inserting ''; and''; and

(III) by adding at the end the following:

''(x) English language acquisition and integrated training programs.'';

(iv) in subparagraph (F)—

(I) in clause (ii), by striking ''referred to in subsection (c), shall make available—'' and all that follows and inserting ''shall make available a list of eligible providers of training services, and accompanying information, in accordance with section 122(d).'';

(II) in the heading of clause (iii), by striking ''INDIVIDUAL TRAINING ACCOUNTS'' and inserting ''CAREER SCHOLARSHIP ACCOUNTS'';

(III) in clause (iii)—

(aa) by striking ''identifying information'' and inserting ''accompanying information'';

(bb) by striking ''clause (ii)(I)'' and inserting ''clause (ii)''; and

(cc) by striking ''an individual training account'' and inserting ''a career scholarship account''; and

(IV) by adding at the end the following:

''(iv) COORDINATION.—Each local board may, through one-stop centers, coordinate career scholarship accounts with other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.''; and

(v) in subparagraph (G)—

(I) in the subparagraph heading, by striking ''INDIVIDUAL TRAINING ACCOUNTS'' and inserting ''CAREER SCHOLARSHIP ACCOUNTS'';

(II) in clause (i), by striking ''individual training accounts'' and inserting ''career scholarship accounts'';

(III) in clause (ii)—

(aa) by striking ''an individual training account'' and inserting ''a career scholarship account'';

(bb) in subclause (II), by striking ''individual training accounts'' and inserting ''career scholarship accounts'';

(cc) in subclause (II) by striking ''or'' after the semicolon;

(dd) in subclause (III), by striking ''special participant populations that face multiple barriers to employment'' and inserting ''hard-to-serve populations'';

(ee) in subclause (III), by striking the period and inserting ''; or''; and

(ff) by adding at the end the following:

''(IV) the local board determines that it would be most appropriate to award a contract to an institution of higher education in order to facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.''; and

(IV) in clause (iv)—

(aa) by redesignating subclause (IV) as subclause (V); and

(bb) by inserting after subclause (III) the following:

''(IV) Individuals with disabilities.''.

(3) PERMISSIBLE ACTIVITIES.—Section 134(e) (29 U.S.C. 2864(e)) is amended—

(A) by striking the matter preceding paragraph (2) and inserting the following:

''(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

''(1) IN GENERAL.—

''(A) ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved—

''(i) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment;

''(ii) customized employment-related services to employers on a fee-for-service basis;

''(iii) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations;

''(iv) technical assistance and capacity building for serving individuals with disabilities in local areas, for one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, and the development of performance measures;

''(v) employment and training assistance provided in coordination with child support enforcement activities of the State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

''(vi) activities to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

''(vii) activities to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

''(viii) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

''(ix) activities—

''(I) to improve coordination between workforce investment activities carried out within the local area involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services; and

''(II) to improve services and linkages between the local workforce investment system including the local one-stop delivery system, and all employers, including small employers in the local area, through services described in this section, including subparagraph (B);

''(x) training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;

''(xi) using a portion of the funds allocated under section 133(b), activities to carry out business services and strategies that meet the workforce investment needs of local area employers, as determined by the local board, consistent with the local plan under section 118, which services—

''(I) may be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the leveraging of economic development and other resources as determined appropriate by the local board; and

''(II) may include—

''(aa) identifying and disseminating to business, educators, and job seekers, information related to the workforce, economic and community development needs, and opportunities of the local economy;

''(bb) development and delivery of innovative workforce investment services and strategies for area businesses, which may include sectoral, industry cluster, regional skills alliances, career ladder, skills upgrading, skill standard development and certification, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;

''(cc) participation in seminars and classes offered in partnership with relevant organizations focusing on the workforce-related needs of area employers and job seekers;

''(dd) training consulting, needs analysis, and brokering services for area businesses, including the organization and aggregation of training (which may be paid for with funds other than those provided under this title), for individual employers and coalitions of employers with similar interests, products, or workforce needs;

''(ee) assistance to area employers in the aversion of layoffs and in managing reductions in force in coordination with rapid response activities;

''(ff) the marketing of business services offered under this title, to appropriate area employers, including small and mid-sized employers;

''(gg) information referral on concerns affecting local employers; and

''(hh) other business services and strategies designed to better engage employers in workforce investment activities and to make the workforce investment system more relevant to the workforce investment needs of area businesses, as determined by the local board to be consistent with the objectives of this title;

''(xii) activities to adjust the self-sufficiency standards for local factors, or activities to adopt, calculate, or commission a self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and

''(xiii) improved coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

''(B) WORK SUPPORT ACTIVITIES FOR LOW-WAGE WORKERS.—

''(i) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and

funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved, work support activities designed to assist low-wage workers in retaining and enhancing employment. The one-stop partners shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under this subparagraph.

''(ii) ACTIVITIES.—The activities described in clause (i) may include the provision of activities described in this section through the one-stop delivery system in a manner that enhances the opportunities of such workers to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.'';

(B) in paragraph (2), by striking the matter preceding subparagraph (A) and inserting the following:

''(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—''; and

(C) by adding at the end the following:

''(4) INCUMBENT WORKER TRAINING PROGRAMS.—

''(A) IN GENERAL.—The local board may use up to 10 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through an incumbent worker training program carried out in accordance with this paragraph. The Governor or State board may make recommendations to the local board regarding incumbent worker training with statewide impact.

''(B) TRAINING ACTIVITIES.—The training program for incumbent workers carried out under this paragraph shall be carried out by the local board in conjunction with the employers or groups of employers of such workers for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs.

''(C) EMPLOYER SHARE REQUIRED.—

''(i) IN GENERAL.—Employers participating in the program carried out under this paragraph shall be required to pay the non-Federal share of the costs of providing the training to incumbent workers of the employers. The local board shall establish the non-Federal share of such costs, which may include in-kind contributions. The non-Federal share shall not be less than—

''(I) 10 percent of the costs, for employers with 50 or fewer employees;

''(II) 25 percent of the costs, for employers with more than 50 employees but fewer than 100 employees; and

''(III) 50 percent of the costs, for employers with 100 or more employees.

''(ii) CALCULATION OF EMPLOYER SHARE.—The non-Federal share paid by such an employer may include the amount of the wages paid by the employer to a worker while the worker is attending a training program under this paragraph.''.

SEC. 122. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) STATE PERFORMANCE MEASURES.—

(1) INDICATORS OF PERFORMANCE.—Section 136(b)(2)(A) (29 U.S.C. 2871(b)(2)(A)) is amended—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking ''and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129'';

(ii) by striking subclause (III) and inserting the following:

''(III) increases in earnings from unsubsidized employment; and''; and

(iii) in subclause (IV), by striking '', or by participants'' and all that follows through ''unsubsidized employment''; and

(B) by striking clause (ii) and inserting the following:

''(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance for youth activities authorized under section 129 shall consist of—

''(I) entry into employment, education or advanced training, or military service;

''(II) school retention, and attainment of secondary school diplomas or their recognized equivalents and of postsecondary certificates; and

''(III) literacy or numeracy gains.''.

(2) ADDITIONAL INDICATORS.—Section 136(b)(2)(C) (29 U.S.C. 2871(b)(2)(C)) is amended to read as follows:

''(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities under this subtitle, including indicators identified in collaboration with State business and industry associations, with employee representatives where applicable, and with local boards, to measure the performance of the workforce investment system in serving the workforce needs of business and industry in the State.''.

(3) LEVELS OF PERFORMANCE.—Section 136(b)(3)(A) (29 U.S.C. 2871(b)(3)(A)) is amended—

(A) in clause (iii)—

(i) in the heading, by striking ''FOR FIRST 3 YEARS'';

(ii) by striking ''and the customer satisfaction indicator of performance, for the first 3'' and inserting ''described in clauses (i) and (ii) of paragraph (2)(A) and the customer satisfaction indicator of performance, for the first 2''; and

(iii) by inserting at the end the following: ''Agreements on levels of performance for each of the core indicators of performance for the third and fourth program years covered by the State plan shall be reached prior to the beginning of the third program year covered by the State plan, and incorporated as a modification to the State plan.'';

(B) in clause (iv)—

(i) in the matter preceding subclause (I), by striking ''or (v)'';

(ii) in subclause (II)—

(I) by striking ''taking into account'' and inserting ''and shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(II) by inserting ''(such as differences in unemployment rates and job losses or gains in particular industries)'' after ''economic conditions'';

(III) by inserting ''(such as indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency)'' after ''program''; and

(IV) by striking ''and'' at the end;

(iii) in subclause (III), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(IV) the extent to which the levels involved will assist the State in meeting the national goals described in clause (v).'';

(C) by striking clause (v) and inserting the following:

''(v) ESTABLISHMENT OF NATIONAL GOALS.—In order to promote enhanced performance outcomes on the performance measures and to facilitate the process of reaching agreements with the States under clause (iii) and to measure systemwide performance for the one-stop delivery systems of the States, the Secretary shall establish long-term national goals for the adjusted levels of performance for that systemwide performance to be achieved by the programs assisted under chapters 4 and 5 on the core indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2). Such goals shall be established in accordance with the Government Performance and Results Act of 1993 in consultation with the States and other appropriate parties.''; and

(D) in clause (vi)—

(i) by striking ''or (v)''; and

(ii) by striking ''with the representatives described in subsection (i)'' and inserting ''with the States and other interested parties''.

(b) LOCAL PERFORMANCE MEASURES.—Section 136(c)(3) (29 U.S.C. 2871(c)(3))—

(1) by striking ''shall take into account'' and inserting ''shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(2) by inserting ''(characteristics such as unemployment rates and job losses or gains in particular industries)'' after ''economic''; and

(3) by inserting ''(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency)'' after ''demographic''.

(c) REPORT.—Section 136(d) (29 U.S.C. 2871(d)) is amended—

(1) in paragraph (1), by adding at the end the following: ''In the case of a State or local area that chooses to expend funds for activities under subsection (a)(3)(A)(i) or (e)(1)(A)(xi), respectively, of section 134, the report also shall include the amount of such funds so expended and the percentage that such funds are of the funds available for activities under section 134.'';

(2) in paragraph (2)—

(A) in subparagraph (E)—

(i) by striking ''(excluding participants who received only self-service and informational activities)''; and

(ii) by striking ''and'' after the semicolon;

(B) in subparagraph (F)—

(i) by inserting ''noncustodial parents with child support obligations, homeless individuals,'' after ''displaced homemakers,''; and

(ii) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(G) the number of participants who have received services, other than followup services, authorized under this title;

''(H) the number of participants who have received services, other than followup services, authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(3), and training services described in section 134(d)(4), respectively;

''(I) the number of participants who have received followup services authorized under this title;

''(J) the cost per participant for services authorized under this title; and

''(K) the amount of adult and dislocated worker funds spent on—

''(i) core, intensive, and training services, respectively; and

''(ii) services provided under subsection (a)(3)(A)(i) or (e)(1)(A)(xi) of section 134, if applicable.''; and

(3) by adding at the end the following:

''(4) DATA VALIDATION.—In preparing the reports described in this subsection, the States shall establish procedures, consistent with guidelines issued by the Secretary, to

ensure that the information contained in the reports is valid and reliable.''.

(d) EVALUATION OF STATE PROGRAMS.—Section 136(e)(3) is amended by inserting '', including information on promoting self-sufficiency and comparable pay between men and women'' after ''employers''.

(e) SANCTIONS FOR STATE.—Section 136(g) is amended—

(1) in paragraph (1)(B), by striking ''If such failure continues for a second consecutive year'' and inserting ''If a State performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years''; and

(2) in paragraph (2), by striking ''section 503'' and inserting ''subsection (i)(1)''.

(f) SANCTIONS FOR LOCAL AREA.—Section 136(h)(2)(A) (29 U.S.C. 2871(h)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''If such failure continues for a second consecutive year'' and inserting ''If a local area performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years'';

(2) in clause (ii), by striking ''or'' after the semicolon;

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following:

''(iii) redesignate the local area in accordance with section 116(b)(2); or''.

(g) INCENTIVE GRANTS.—Section 136(i) (29 U.S.C. 2871(i)) is amended to read as follows:

''(i) INCENTIVE GRANTS FOR LOCAL AREAS.—

''(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

''(2) BASIS.—The Governor shall award the grants on the basis that the local areas—

''(A) have exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

''(B) have—

''(i) met the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

''(ii) demonstrated—

''(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

''(II) exemplary performance in the State in serving hard-to-serve populations; or

''(III) effective—

''(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment services under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under this title as well as one-stop partner programs described in section 121;

''(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under this title;

''(cc) implementation of coordination activities through agreements with relevant regional or local agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(dd) regional coordination with other local workforce investment boards or areas;

''(ee) alignment of management information systems to integrate participant information across programs; or

''(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

''(3) USE OF FUNDS.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor, including—

''(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

''(B) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(C) activities that support regional economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

''(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

''(E) activities that support the development of an integrated performance information system that includes common measures;

''(F) activities that align management information systems with integrated performance information across education and workforce programs;

''(G) activities that support activities to improve performance and program coordination with other training providers; or

''(H) activities that leverage additional training resources for adults and youth.

''(4) TECHNICAL ASSISTANCE.—The Governor shall reserve 4 percent of the funds available for grants under this subsection to provide technical assistance to local areas to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and regional economic development.''.

(h) USE OF CORE MEASURES IN OTHER DEPARTMENT OF LABOR PROGRAMS.—Section 136 (29 U.S.C. 2871) is amended by adding at the end the following:

''(j) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs carried out under chapters 4 and 5, and consistent with the requirements of the applicable authorizing laws, the Secretary shall use the indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2) to assess the effectiveness of the programs described in clauses (i), (ii), and (vi) of section 121(b)(1)(B) that are carried out by the Secretary.''.

(i) PREVIOUS DEFINITIONS OF CORE INDICATORS.—Section 502 (29 U.S.C. 9272) is repealed.

SEC. 123. AUTHORIZATION OF APPROPRIATIONS.

(a) YOUTH ACTIVITIES.—Section 137(a) (29 U.S.C. 2872(a)) is amended by striking ''such sums as may be necessary for each of fiscal years 1999 through 2003'' and inserting ''such sums as may be necessary for each of fiscal years 2006 through 2011''.

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(b) (29 U.S.C. 2872(b)) is amended by striking ''such sums as may be necessary for each of fiscal years 1999 through 2003'' and inserting ''such sums as may be necessary for each of fiscal years 2006 through 2011''.

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(c) (29 U.S.C. 2872(c)) is amended by striking ''such sums as may be necessary for each of fiscal years 1999 through 2003'' and inserting ''such sums as may be necessary for each of fiscal years 2006 through 2011''.

Subtitle C—Job Corps

SEC. 131. JOB CORPS.

(a) ELIGIBILITY.—Section 144(3) (29 U.S.C. 2884(3)) is amended by adding at the end the following:

''(F) A child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).''.

(b) IMPLEMENTATION OF STANDARDS AND PROCEDURES.—Section 145(a)(3) (29 U.S.C. 2885(a)(3)) is amended—

(1) in subparagraph (B), by striking ''and'' after the semicolon;

(2) in subparagraph (C), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) child welfare agencies that are responsible for children in foster care and children eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).''.

(c) INDUSTRY COUNCILS.—Section 154(b) (29 U.S.C. 2894(b)) is amended—

(1) in paragraph (1)(A), by striking ''local and distant''; and

(2) by adding at the end the following:

''(3) EMPLOYERS OUTSIDE OF LOCAL AREA.—The industry council may include, or otherwise provide for consultation with, employers from outside the local area who are likely to hire a significant number of enrollees from the Job Corps center.

''(4) SPECIAL RULE FOR SINGLE LOCAL AREA STATES.—In the case of a single local area State designated under section 116(b), the industry council shall include a representative of the State Board.''.

(d) INDICATORS OF PERFORMANCE.—Section 159 (29 U.S.C. 2899) is amended—

(1) in subsection (c)—

(A) by striking paragraph (1) and inserting the following:

''(1) PERFORMANCE INDICATORS.—The Secretary shall annually establish expected levels of performance for Job Corps centers and the Job Corps program relating to each of the core indicators of performance for youth activities identified in section 136(b)(2)(A)(ii).'';

(B) in paragraph (2), by striking ''measures'' each place it appears and inserting ''indicators''; and

(C) in paragraph (3)—

(i) in the first sentence, by striking ''core performance measures, as compared to the expected performance level for each performance measure'' and inserting ''performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure''; and

(ii) in the second sentence, by striking ''measures'' each place it appears and inserting ''indicators''; and

(2) in subsection (f)(2), in the first sentence, by striking ''core performance measures'' and inserting ''indicators of performance''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 161 (29 U.S.C. 2901) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

Subtitle D—National Programs

SEC. 141. NATIVE AMERICAN PROGRAMS.

(a) ADVISORY COUNCIL.—Section 166(h)(4)(C) (29 U.S.C. 2911(h)(4)(C)) is amended to read as follows:

''(C) DUTIES.—The Council shall advise the Secretary on the operation and administration of the programs assisted under this section, including the selection of the individual appointed as head of the unit established under paragraph (1).''.

(b) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—Section 166(j) (29 U.S.C. 2911(j)) is amended to read as follows:

''(j) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to the Cook Inlet Tribal Council, Incorporated, and the University of Hawaii at Maui, for the unique populations who reside in Alaska or Hawaii, to improve job training and workforce investment activities.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006.''.

(c) PERFORMANCE INDICATORS.—Section 166 (29 U.S.C. 2911) is amended by adding at the end the following:

''(k) PERFORMANCE INDICATORS.—

''(1) DEVELOPMENT OF INDICATORS.—The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards which shall be applicable to programs under this section.

''(2) SPECIAL CONSIDERATIONS.—Such performance indicators and standards shall take into account—

''(A) the purpose of this section as described in subsection (a)(1);

''(B) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and

''(C) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.''.

SEC. 142. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

Section 167 (29 U.S.C. 2912) is amended—

(1) in subsection (a), by striking ''2'' and inserting ''2 to 4'';

(2) in subsection (b), by inserting ''and deliver'' after ''administer'';

(3) in subsection (c)—

(A) in paragraph (1), by striking ''2-year'' and inserting ''4-year'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ''describe the population to be served and'' before ''identify''; and

(II) by inserting '', including upgraded employment in agriculture'' before the semicolon;

(ii) in subparagraph (B), by striking ''and'' at the end;

(iii) in subparagraph (C), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(D) describe the availability and accessibility of local resources such as supportive services, services provided through one-stop delivery systems, and education and training services, and how the resources can be made available to the population to be served; and

''(E) describe the plan for providing services under this section, including strategies and systems for outreach, case management, assessment, and delivery through one-stop delivery systems.''; and

(C) by striking paragraph (4) and inserting the following:

''(4) COMPETITION.—The competition for grants made and contracts entered into under this section shall be conducted every 2 to 4 years.'';

(4) in subsection (d), by striking ''include'' and all that follows and inserting ''include outreach, employment, training, educational assistance, literary assistance, English language and literacy instruction, pesticide and worker safety training, housing (including permanent housing), supportive services, school dropout prevention activities, followup services for those individuals placed in employment, self-employment and related business or micro-enterprise development or education as needed by eligible individuals and as identified pursuant to the plan required by subsection (c), customized career and technical education in occupations that will lead to higher wages, enhanced benefits, and long-term employment in agriculture or another area, and technical assistance to improve coordination of services and implement best practices relating to service delivery through one-stop delivery systems.'';

(5) in subsection (f), by striking ''take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.'' and inserting ''are adjusted based on the economic and demographic barriers to employment of eligible migrant and seasonal farmworkers.'';

(6) in subsection (g), by striking ''(enacted by the Single Audit Act of 1984)'';

(7) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

''(1) DEPENDENT.—The term 'dependent', used with respect to an eligible migrant or seasonal farmworker, means an individual who—

''(A) was claimed as a dependent on the farmworker's Federal income tax return for the previous year;

''(B) is the spouse of the farmworker; or

''(C) is able to establish—

''(i) a relationship as the farmworker's—

''(I) biological or legally adopted child, grandchild, or great-grandchild;

''(II) foster child;

''(III) stepchild;

''(IV) brother, sister, half-brother, half-sister, stepbrother, or stepsister;

''(V) parent, grandparent, or other direct ancestor (but not foster parent);

''(VI) stepfather or stepmother;

''(VII) uncle or aunt;

''(VIII) niece or nephew; or

''(IX) father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; and

''(ii) the receipt of over half of the individual's total support from the farmworker's family during the eligibility determination period for the farmworker.''; and

(B) in paragraph (4)(A)—

(i) by striking ''disadvantaged person'' and inserting ''low-income individual''; and

(ii) by inserting ''and who faces multiple barriers to self-sufficiency'' before the semicolon;

(8) by redesignating subsection (h) as subsection (i); and

(9) by inserting before subsection (i) the following:

''(h) FUNDING ALLOCATION.—From the funds appropriated and made available to carry out this section, the Secretary shall reserve not more than 1 percent for discretionary purposes, such as providing technical assistance to eligible entities.''

SEC. 143. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

Section 168(a)(3) (29 U.S.C. 2913(a)(3)) is amended—

(1) in subparagraph (A), by inserting '', including services provided by one-stop operators and one-stop partners'' before the semicolon; and

(2) in subparagraph (C), by striking ''section 134(c)'' and inserting ''section 121(e)''.

SEC. 144. YOUTH CHALLENGE GRANTS.

Section 169 (29 U.S.C. 2914) is amended to read as follows:

''SEC. 169. YOUTH CHALLENGE GRANTS.

''(a) IN GENERAL.—Of the amounts reserved by the Secretary under section 127(b)(1)(A) for a fiscal year—

''(1) the Secretary shall use not less than 80 percent to award competitive grants under subsection (b); and

''(2) the Secretary may use not more than 20 percent to award competitive grants under subsection (c).

''(b) COMPETITIVE GRANTS TO STATES AND LOCAL AREAS.—

''(1) ESTABLISHMENT.—From the funds described in subsection (a)(1), the Secretary shall award competitive grants to eligible entities to carry out activities authorized under this subsection to assist eligible youth in acquiring the skills, credentials, and employment experience necessary to achieve the performance outcomes for youth described in section 136.

''(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

''(A) a State or consortium of States;

''(B) a local board or consortium of local boards;

''(C) a recipient of a grant under section 166 (relating to Native American programs); or

''(D) a public or private entity (including a consortium of such entities) with expertise in the provision of youth activities, applying in partnership with a local board or consortium of local boards.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the activities the eligible entity will provide to eligible youth under this subsection, and how the eligible entity will collaborate with State and local workforce investment systems established under this title in the provision of such activities;

''(B) a description of the programs of demonstrated effectiveness on which the provision of the activities under subparagraph (A) are based, and a description of how such activities will expand the base of knowledge relating to the provision of activities for youth;

''(C) a description of the State, local, and private resources that will be leveraged to provide the activities described under subparagraph (A) in addition to funds provided under this subsection, and a description of the extent of the involvement of employers in the activities;

''(D) the levels of performance the eligible entity expects to achieve with respect to the indicators of performance for youth specified in section 136(b)(2)(A)(ii); and

''(E) an assurance that the State board of each State in which the proposed activities are to be carried out had the opportunity to review the application, and including the comments, if any, of the affected State boards on the application, except that this subparagraph shall not apply to an eligible entity described in paragraph (2)(C).

''(4) FACTORS FOR AWARD.—

''(A) IN GENERAL.—In awarding grants under this subsection the Secretary shall consider—

''(i) the quality of the proposed activities;

''(ii) the goals to be achieved;

''(iii) the likelihood of successful implementation;

''(iv) the extent to which the proposed activities are based on proven strategies or the extent to which the proposed activities will expand the base of knowledge relating to the provision of activities for eligible youth;

''(v) the extent of collaboration with the State and local workforce investment systems in carrying out the proposed activities;

''(vi) the extent of employer involvement in the proposed activities;

''(vii) whether there are other Federal and non-Federal funds available for similar activities to the proposed activities, and the additional State, local, and private resources

that will be provided to carry out the proposed activities;

''(viii) the quality of the proposed activities in meeting the needs of the eligible youth to be served; and

''(ix) the extent to which the proposed activities will expand on services provided under section 127.

''(B) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographically diverse areas.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out activities that are designed to assist youth in acquiring the skills, credentials, and employment experience that are necessary to succeed in the labor market, including the activities identified in section 129.

''(B) ACTIVITIES.—The activities carried out pursuant to subparagraph (A) may include the following:

''(i) Training and internships for out-of-school youth in sectors of the economy experiencing, or projected to experience, high growth.

''(ii) Dropout prevention activities for in-school youth.

''(iii) Activities designed to assist special youth populations, such as court-involved youth and youth with disabilities.

''(iv) Activities combining remediation of academic skills, work readiness training, and work experience, and including linkages to postsecondary education, apprenticeships, and career-ladder employment.

''(v) Activities, including work experience, paid internships, and entrepreneurial training, in areas where there is a migration of youth out of the areas.

''(C) PARTICIPANT ELIGIBILITY.—Youth who are 14 years of age through 21 years of age, as of the time the eligibility determination is made, may be eligible to participate in activities carried out under this subsection.

''(6) GRANT PERIOD.—The Secretary shall make a grant under this subsection for a period of 2 years and may renew the grant, if the eligible entity has performed successfully, for a period of not more than 3 succeeding years.

''(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

''(8) EVALUATION.—The Secretary shall reserve not more than 3 percent of the funds described in subsection (a)(1) to provide technical assistance to, and conduct evaluations of (using appropriate techniques as described in section 172(c)), the projects funded under this subsection.

''(c) COMPETITIVE FIRST JOBS FOR YOUTH.—

''(1) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a consortium that—

''(A) shall include—

''(i)(I) a State board; or

''(II) a local board; and

''(ii) a consortium of businesses, including small businesses; and

''(B) may include 1 or more—

''(i) local educational agencies;

''(ii) institutions of higher education;

''(iii) business intermediaries;

''(iv) community-based organizations; or

''(v) apprenticeship programs.

''(2) AUTHORIZATION.—From the funds described in subsection (a)(2), the Secretary may award grants to eligible entities to provide activities that will assist youth in preparing for, entering, and retaining employment.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the area to be served, including information demonstrating that the area has—

''(i) high unemployment among individuals ages 16 through 21;

''(ii) high unemployment among youth who are individuals with disabilities; or

''(iii) high job loss;

''(B) a description of the proposed program, including activities, compensation, and expected outcomes;

''(C) an assurance that the participating employers in the proposed program are located in the local area to be served, and a demonstration of the commitment of the participating employers to hire individuals who—

''(i) have successfully completed the program; or

''(ii) continue to work in the program;

''(D) demographic information about the targeted populations to be served by the proposed program, including gender, age, and race;

''(E) a description of how the proposed program will address the barriers to employment of the targeted populations;

''(F) a description of the manner in which the eligible entity will evaluate the program; and

''(G) a description of the ability of the eligible entity to carry out and expand the program after the expiration of the grant period.

''(4) EQUITABLE DISTRIBUTION TO RURAL AREAS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants to rural areas.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out—

''(i) activities that will assist youth in preparing for, entering, and retaining employment, including the activities described in section 129 for out-of-school youth;

''(ii) activities designed to strengthen academic skills that would assist—

''(I) in-school participants to be successful in secondary school and continue such participants' education; and

''(II) out-of-school youth to earn a high school diploma or its recognized equivalent, or prepare for postsecondary programs;

''(iii) activities designed to assist youth in economically distressed areas;

''(iv) subsidized employment for not more than 9 months that provides direct experience in a sector that has opportunities for full-time employment;

''(v) career and academic advisement, activities to promote financial literacy and the attainment of entrepreneurial skills, and labor market information on high-skill, high-wage, and nontraditional occupations; and

''(vi) such other activities as the Secretary determines are appropriate to ensure that youth entering the workforce have the skills needed by employers.

''(B) PARTICIPANT ELIGIBILITY.—An individual who is not younger than 16 years of age and not older than 21 years of age, as of the time the eligibility determination is made, who face barriers to employment, including an individual who is an individual with a disability, may be eligible to participate in activities under this subsection.

''(6) SPECIAL RULE.—An eligible entity that receives a grant under this subsection shall coordinate activities with the designated State agency (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)) and other appropriate State agencies in the State to be served.

''(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

''(8) EVALUATIONS.—The Secretary may require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).''.

SEC. 145. TECHNICAL ASSISTANCE.

Section 170 (29 U.S.C. 2915) is amended—

(1) in subsection (a)(1), by—

(A) inserting ''the training of staff providing rapid response services, the training of other staff of recipients of funds under this title, the training of members of State boards and local boards, peer review activities under this title,'' after ''localities,''; and

(B) striking ''from carrying out activities'' and all that follows through the period and inserting ''to implement the amendments made by the Workforce Investment Act Amendments of 2005.'';

(2) in subsection (a)(2), by adding at the end the following: ''The Secretary shall also hire staff qualified to provide the assistance described in paragraph (1).'';

(3) in subsection (b)(2), by striking the last sentence and inserting ''Such projects shall be administered by the Employment and Training Administration.''; and

(4) by adding at the end the following:

''(c) BEST PRACTICES COORDINATION.—The Secretary shall—

''(1) establish a system through which States may share information regarding best practices with regard to the operation of workforce investment activities under this Act;

''(2) evaluate and disseminate information regarding best practices and identify knowledge gaps; and

''(3) commission research under section 171(c) to address knowledge gaps identified under paragraph (2).''.

SEC. 146. DEMONSTRATION, PILOT, MULTI-SERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) DEMONSTRATION AND PILOT PROJECTS.—Section 171(b) (29 U.S.C. 2916(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''Under a'' and inserting ''Consistent with the priorities specified in the'';

(B) by striking subparagraphs (A) through (E) and inserting the following:

''(A) projects that assist national employers in connecting with the workforce investment system established under this title in order to facilitate the recruitment and employment of needed workers for career ladder jobs and to provide information to such system on skills and occupations in demand;

''(B) projects that promote the development of systems that will improve the maximum effectiveness of programs carried out under this title;

''(C) projects that focus on opportunities for employment in industries and sectors of

industries that are experiencing, or are likely to experience, high rates of growth and jobs with wages leading to self-sufficiency;

''(D) computerized, individualized, self-paced training projects targeted to dislocated, disadvantaged, or incumbent workers utilizing equipment and curriculum designed in partnership with industries for employment in the operations, repair, and maintenance of high-tech equipment that is used in integrated systems technology;

''(E) projects carried out by States and local areas to test innovative approaches to delivering employment-related services;'';

(C) in subparagraph (G), by striking ''and'' after the semicolon; and

(D) by striking subparagraph (H) and inserting the following:

''(H) projects that provide retention grants, which shall—

''(i) be made to qualified job training programs offering instruction, assessment, or professional coaching, upon placement of a low-income individual trained by the program involved in employment with an employer and retention of the low-income individual in that employment with that employer for a period of 1 year, if that employment provides the low-income individual with an annual salary—

''(I) that is at least $10,000 more than the individual's federally adjusted income for the previous year; and

''(II) that is not less than twice the poverty line applicable to the individual; and

''(ii) be made taking into account the economic benefit received by the Federal Government from the employment and retention of the individual, including the economic benefit from tax revenue and decreased public subsidies;

''(I) targeted innovation projects that improve access to and delivery of employment and training services, with emphasis given to projects that incorporate advanced technologies to facilitate the connection of individuals to the information and tools the individuals need to upgrade skills;

''(J) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet; and

''(K) projects that provide comprehensive education and training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations.''; and

(2) in paragraph (2)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(b) MULTISERVICE PROJECTS.—Section 171(c)(2)(B) (29 U.S.C. 2916(c)(2)(B)) is amended to read as follows:

''(B) STUDIES AND REPORTS.—

''(i) NET IMPACT STUDIES AND REPORTS.—

''(I) IN GENERAL.—The Secretary, in coordination with the Secretary of Education, shall conduct studies to determine the net impacts of, including best practices of, programs, services, and activities carried out under this title.

''(II) REPORTS.—The Secretary shall prepare and disseminate to the public reports containing the results of the studies conducted under subclause (I).

''(ii) STUDY ON RESOURCES AVAILABLE TO ASSIST OUT-OF-SCHOOL YOUTH.—The Secretary, in coordination with the Secretary of Education, may conduct a study examining the resources available at the Federal, State, and local levels to assist out-of-school youth in obtaining the skills, credentials, and work experience necessary to become successfully employed, including the availability of funds provided through average daily attendance and other methodologies used by States and local areas to distribute funds.

''(iii) STUDY OF INDUSTRY-BASED CERTIFICATION AND CREDENTIALS.—

''(I) IN GENERAL.—The Secretary shall conduct a study concerning the role and benefits of credentialing and certification to businesses and workers in the economy and the implications of certification to the services provided through the workforce investment system. The study may examine issues such as—

''(aa) the characteristics of successful credentialing and certification systems that serve business and individual needs;

''(bb) the relative proportions of certificates and credentials attained with assistance from the public sector, with private-sector training of new hires or incumbent workers, and by individuals on their own initiative without other assistance, respectively;

''(cc) the return on human capital investments from occupational credentials and industry-based skill certifications, including the extent to which acquisition of such credentials or certificates enhances outcomes such as entry into employment, retention, earnings (including the number and amount of wage increases), career advancement, and layoff aversion;

''(dd) the implications of the effects of skill certifications and credentials to the types and delivery of services provided through the workforce investment system;

''(ee) the role that Federal and State governments play in fostering the development of and disseminating credentials and skill standards; and

''(ff) the use of credentials by businesses to achieve goals for workforce skill upgrading and greater operating efficiency.

''(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study conducted pursuant to subclause (I). Such report may include any recommendations that the Secretary determines are appropriate to include in such report relating to promoting the acquisition of industry-based certification and credentials, and the appropriate role of the Department of Labor and the workforce investment system in supporting the needs of business and individuals with respect to such certification and credentials.

''(iv) STUDY OF EFFECTIVENESS OF WORKFORCE INVESTMENT SYSTEM IN MEETING BUSINESS NEEDS.—

''(I) IN GENERAL.—Using funds available to carry out this section jointly with funds available to the Secretary of Commerce and Administrator of the Small Business Administration, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may conduct a study of the effectiveness of the workforce investment system in meeting the needs of business, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies. In conducting the study, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may examine issues such as—

''(aa) methods for identifying the workforce needs of businesses and how the requirements of small businesses may differ from larger establishments;

''(bb) business satisfaction with the workforce investment system, with particular emphasis on the satisfaction of small businesses;

''(cc) the extent to which business is engaged as a collaborative partner in the workforce investment system, including the extent of business involvement as members of State boards and local boards, and the extent to which such boards and one-stop centers effectively collaborate with business and industry leaders in developing workforce investment strategies, including strategies to identify high growth opportunities;

''(dd) ways in which the workforce investment system addresses changing skill needs of business that result from changes in technology and work processes;

''(ee) promising practices for serving small businesses;

''(ff) the extent and manner in which the workforce investment system uses technology to serve business and individual needs, and how uses of technology could enhance efficiency and effectiveness in providing services; and

''(gg) the extent to which various segments of the labor force have access to and utilize technology to locate job openings and apply for jobs, and characteristics of individuals utilizing such technology (such as age, gender, race or ethnicity, industry sector, and occupational groups).

''(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study described in subclause (I). Such report may include any recommendations the Secretary determines are appropriate to include in such report, including ways to enhance the effectiveness of the workforce investment system in meeting the needs of business for skilled workers.''.

(c) ADMINISTRATION.—Section 171(d) (29 U.S.C. 2916(d)) is amended by striking the last sentence and inserting the following: ''Such projects shall be administered by the Employment and Training Administration.''.

(d) NEXT GENERATION TECHNOLOGIES.—Section 171 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) SKILL CERTIFICATION PILOT PROJECTS.—

''(1) PILOT PROJECTS.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (10), the Secretary shall establish and carry out not more than 10 pilot projects to establish a system of industry-validated national certifications of skills, including—

''(A) not more than 8 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), nanotechnology, and energy technology; and

''(B) not more than 2 cross-disciplinary national certifications of skills in homeland security technology.

''(2) GRANTS TO ELIGIBLE ENTITIES.—In carrying out the pilot projects, the Secretary shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1). In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(3) ELIGIBLE ENTITIES.—

''(A) DEFINITION OF ELIGIBLE ENTITY.—In this subsection the term 'eligible entity' means an entity that shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

''(i) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(ii) An advanced technology education center.

''(iii) A local board.

''(iv) A representative of a business in a target industry for the certification involved.

''(v) A representative of an industry association, labor organization, or community development organization.

''(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industry on workforce investment activities that is consistent with the objectives of this title.

''(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(5) CRITERIA.—The Secretary shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.

''(6) PRIORITY.—In selecting eligible entities to receive grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry or nonprofit sources. Such matching funds may be provided in cash or in kind.

''(7) AUTHORIZED ACTIVITIES.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the funds made available through the grant—

''(i) to facilitate the establishment of certification requirements for a certification described in paragraph (1) for an industry;

''(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and

''(iii) to collect and analyze data related to the program at the program's completion, and to identify best practices (consistent with paragraph (8)) that may be used by State and local workforce investment boards in the future.

''(B) BASIS FOR REQUIREMENTS.—The certification requirements established under the grant shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation's Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.

''(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—The eligible entity shall ensure that—

''(i) a training and education program related to competencies for the industry involved, that is flexible in mode and timeframe for delivery and that meets the needs of those seeking the certification, is offered; and

''(ii) the certification program is offered at the completion of the training and education program.

''(D) RELATIONSHIP TO THE ASSOCIATE DEGREE.—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

''(E) AVAILABILITY.—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

''(8) CONSULTATION.—The Secretary shall consult with the Director of the National Science Foundation to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation's Advanced Technological Education Program.

''(9) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary shall—

''(A) establish the core components of a model high-technology certification program;

''(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

''(C) prepare and submit a report on the pilot projects to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

''(D) make available to the public both the data and the report.

''(10) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $30,000,000 for fiscal year 2006 to carry out this subsection.''.

(e) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—Section 171 (29 U.S.C. 2916), as amended by subsection (d), is further amended by adding at the end the following:

''(f) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTEGRATED WORKFORCE TRAINING.—The term 'integrated workforce training' means training that integrates occupational skills training with language acquisition.

''(B) SECRETARY.—The term 'Secretary' means the Secretary of Labor in consultation with the Secretary of Education.

''(2) DEMONSTRATION PROJECT.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (11), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

''(3) GRANTS.—

''(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(B) PERIODS.—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

''(4) ELIGIBLE ENTITIES.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

''(i) An employer or employer association.

''(ii) A nonprofit provider of English language instruction.

''(iii) A provider of occupational or skills training.

''(iv) A community-based organization.

''(v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(vi) A labor organization.

''(vii) A local board.

''(B) EXPERTISE.—To be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

''(i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and

''(ii) providing workforce programs with training and English language instruction.

''(5) APPLICATIONS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

''(i) contain information, including capability statements, that demonstrates that the eligible entity has the expertise described in paragraph (4)(B); and

''(ii) include an assurance that the program to be assisted shall—

''(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

''(II) establish a framework by which the employer, employee, and other relevant members of the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

''(III) ensure that the framework established under subclause (II) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

''(IV) establish identifiable measures so that the progress of the employee and employer and the relative efficacy of the program can be evaluated and best practices identified.

''(6) CRITERIA.—The Secretary shall establish criteria for awarding grants under this subsection.

''(7) INTEGRATED WORKFORCE TRAINING PROGRAMS.—

''(A) PROGRAM COMPONENTS.—

''(i) REQUIRED COMPONENTS.—Each program that receives funding under this subsection shall—

''(I) test an individual's English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

''(II) combine training specific to a particular occupation or occupational cluster, with—

''(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

''(bb) basic skills instruction; and

''(cc) supportive services;

''(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

''(IV) require matching or in-kind resources from private and nonprofit entities.

''(ii) PERMISSIBLE COMPONENTS.—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

''(B) GOAL.—Each program that receives funding under this subsection shall be designed to prepare limited English proficient adults for, and place such adults in employment in, growing industries with identifiable career ladder paths.

''(C) PROGRAM TYPES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:

''(i) A program that—

''(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph as employment that provides at least 75 percent of the median wage in the local area.

''(ii) A program that—

''(I) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services provided at the worksite, or at a location central to several work sites, during work hours.

''(iii) A program that—

''(I) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

''(II) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

''(iv) A program that includes funds from private and nonprofit entities.

''(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to obtain comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels, and to assess how different curricula work for limited English proficient populations. Such approaches may include—

''(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

''(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

''(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

''(8) EVALUATION BY ELIGIBLE ENTITY.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

''(9) EVALUATION BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

''(B) DATA COLLECTION AND ANALYSIS.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

''(C) REPORT.—The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and make available to the public, a report on the demonstration project, including the results of the evaluation.

''(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.

''(11) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $10,000,000 for fiscal year 2006 to carry out this subsection.''.

(f) COMMUNITY-BASED JOB TRAINING.—Section 171 (29 U.S.C. 2916), as amended by subsection (e), is further amended by adding at the end the following:

''(g) COMMUNITY-BASED JOB TRAINING.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMUNITY COLLEGE.—The term 'community college' means—

''(i) an institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), that provides a 2-year degree that is acceptable for full credit toward a bachelor's degree; or

''(ii) a tribally controlled college or university, as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

''(B) ELIGIBLE ENTITY.—The term 'eligible entity' means a community college or a consortium composed of a community college and an institution of higher education, that shall work with—

''(i) a local board;

''(ii) a business in the qualified industry or an industry association in the qualified industry, as identified in the application of the entity; and

''(iii) an economic development entity.

''(C) INSTITUTION OF HIGHER EDUCATION.—Except as otherwise provided in subparagraph (A)(i), the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) and the meaning given the term postsecondary vocational institution in section 102(a)(1)(B) of such Act (20 U.S.C. 1002(a)(1)(B)).

''(D) QUALIFIED INDUSTRY.—The term 'qualified industry' means an industry or economic sector that is projected to experience significant growth, such as an industry or economic sector that—

''(i) is projected to add substantial numbers of new jobs to the regional economy;

''(ii) has or is projected to have significant impact on the regional economy;

''(iii) impacts or is projected to impact the growth of other industries or economic sectors in the regional economy;

''(iv) is being transformed by technology and innovation requiring new knowledge or skill sets for workers;

''(v) is a new or emerging industry or economic sector that is projected to grow; or

''(vi) requires high skills and has significant labor shortages in the regional economy.

''(2) DEMONSTRATION PROJECT.—In addition to the demonstration projects authorized under subsection (b), the Secretary may establish and implement a national demonstration project designed—

''(A) to develop local innovative solutions to the workforce challenges facing high-growth, high-skill industries with labor shortages; and

''(B) to increase employment opportunities for workers in high-growth, high-demand occupations by establishing partnerships among education entities, the workforce investment system, and businesses in high-growth, high-skill industries or sectors.

''(3) GRANTS.—In carrying out the national demonstration project authorized under this subsection, the Secretary shall award grants, on a competitive basis, for 2, 3, or 4 years, in accordance with generally applicable Federal requirements, to eligible entities to enable the eligible entities to carry out activities authorized under this subsection.

''(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the eligible entity that will offer training under the grant;

''(B) a justification of the need for discretionary funding under the grant, including the need for external funds to create a program to carry out the activities described in paragraph (6);

''(C) an economic analysis of the local labor market to identify—

''(i) high-growth, high-demand industries;

''(ii) the workforce issues faced by such industries; and

''(iii) potential participants in programs funded under this subsection;

''(D) a description of the qualified industry for which the training will occur, the availability of competencies on which the training will be based, and how the grant will help workers acquire the competencies and skills necessary for employment;

''(E) a description of the involvement of the local board and businesses, including small businesses, in the geographic area where the proposed grant will be implemented;

''(F) performance measures for the grant, including the expected number of individuals to be trained in a qualified industry, the employment and retention rates for such individuals in a qualified industry, and initial earnings and earnings increases for such individuals;

''(G) a description of how the activities funded by the grant will be coordinated with activities provided through the one-stop center in the local area; and

''(H) a description of the local or private resources that will—

''(i) support the activities carried out under this subsection; and

''(ii) enable the entity to carry out and expand such activities after the expiration of the grant.

''(5) FACTORS FOR AWARD OF GRANT.—

''(A) IN GENERAL.—In awarding grants under this subsection, the Secretary shall consider—

''(i) the extent of public and private collaboration, including existing partnerships among qualified industries, the eligible entity, and the public workforce investment system;

''(ii) the extent to which the grant will provide job seekers with high-quality training for employment in high-growth, high-demand occupations;

''(iii) the extent to which the grant will expand the eligible entity and local one-stop center's capacity to be demand-driven and responsive to local economic needs;

''(iv) the extent to which local businesses commit to hire, retain, or advance individuals who receive training through the grant; and

''(v) the extent to which the eligible entity commits to make any newly developed products, such as skill standards, assessments, or industry-recognized training curricula, available for dissemination nationally.

''(B) LEVERAGING OF RESOURCES.—In awarding grants under this subsection, the Secretary shall also consider—

''(i) the extent to which local or private resources will be made available to support the activities carried out under this subsection, taking into account the resources of the eligible entity and the entity's partners; and

''(ii) the ability of an eligible entity to continue to carry out and expand such activities after the expiration of the grant.

''(C) DISTRIBUTION OF GRANTS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants across diverse industries and geographic areas.

''(6) USE OF FUNDS.—An eligible entity that receives a grant under this subsection—

''(A) shall use the grant funds for—

''(i) the development by the community college that is a part of the eligible entity in collaboration with other partners identified in the application, and, if applicable, other representatives of qualified industries, of rigorous training and education programs leading to an industry-recognized credential or degree and employment in the qualified industry; and

''(ii) training of adults, incumbent workers, dislocated workers, or out-of-school youth in the skills and competencies needed to obtain or upgrade employment in a qualified industry identified in the eligible entity's application; and

''(B) may use the grant funds for—

''(i) disseminating information on training available for high-growth, high-demand occupations in qualified industries through the one-stop delivery system to prospective participants, businesses, business intermediaries, and community-based organizations in the region, including training available through the grant;

''(ii) referring individuals trained under the grant for employment in qualified industries;

''(iii) enhancing integration of community colleges, training and education with businesses, and the one-stop system to meet the training needs of qualified industries for new and incumbent workers;

''(iv) providing training and relevant job skills to small business owners or operators to facilitate small business development in high-growth industries; or

''(v) expanding or creating programs for distance, evening, weekend, modular, or compressed learning opportunities that provide relevant skill training in high-growth, high-demand industries.

''(7) AUTHORITY TO REQUIRE NON-FEDERAL SHARE.—The Secretary may require that recipients of grants under this subsection provide a non-Federal share, from either cash or noncash resources, of the costs of activities carried out under a grant awarded under this subsection.

''(8) PERFORMANCE ACCOUNTABILITY AND EVALUATION.—

''(A) PERFORMANCE ACCOUNTABILITY.—The Secretary shall require an eligible entity that receives a grant under this subsection to submit an interim and final report to the Secretary on the impact on business partners and employment outcomes obtained by individuals receiving training under this subsection using the performance measures identified in the eligible entity's grant application.

''(B) EVALUATION.—The Secretary shall require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).''.

SEC. 147. NATIONAL DISLOCATED WORKER GRANTS.

(a) IN GENERAL.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking the heading and inserting the following:

''SEC. 173. NATIONAL DISLOCATED WORKER GRANTS.'';

and

(2) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

''(a) IN GENERAL.—The Secretary is authorized to award national dislocated worker grants—'';

(B) in paragraph (1), by striking ''subsection (c)'' and inserting ''subsection (b)'';

(C) in paragraph (3), by striking ''and'' after the semicolon; and

(D) by striking paragraph (4) and inserting the following:

''(4) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (e), including providing assistance to eligible individuals;

''(5) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals;

''(6) to provide additional assistance to a State board or local board where a higher than average demand for employment and training activities for dislocated members of the Armed Forces, or spouses, as described in section 101(11)(E), of members of the Armed Forces, described in subsection (b)(2)(A)(iv), exceeds State and local resources for providing such services, and where such programs are to be carried out in partnership with the Department of Defense and Department of Veterans Affairs transition assistance programs; and

''(7) to provide assistance to a State for statewide or local use in order to—

''(A) address cases in which there have been worker dislocations across multiple sectors, across multiple businesses within a sector, or across multiple local areas, and such workers remain dislocated;

''(B) meet emerging economic development needs; and

''(C) train eligible individuals who are dislocated workers described in subparagraph (A).

The Secretary shall issue a final decision on an application for a national dislocated worker grant under this subsection not later than 45 calendar days after receipt of the application. The Secretary shall issue a notice of obligation for such a grant not later than 10 days after the award of the grant.''.

(b) ADMINISTRATION AND ADDITIONAL ASSISTANCE.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(3) in paragraph (2) of subsection (b) (as redesignated by paragraph (2))—

(A) in subparagraph (A), in the matter preceding clause (i), by striking ''national emergency grant'' and inserting ''national dislocated worker grant''; and

(B) in subparagraph (C), by striking ''national emergency grants'' and inserting ''national dislocated worker grants'';

(4) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

''(d) ADDITIONAL ASSISTANCE.—

''(1) IN GENERAL.—From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than $20,000,000 to make grants to States to provide employment and training activities under section 134, in accordance with subtitle B.

''(2) ELIGIBLE STATES.—The Secretary shall make a grant under paragraph (1) to a State for a program year if—

''(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003, is greater than

''(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).

''(3) AMOUNT OF GRANTS.—Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—

''(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003; and

''(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).'';

(5) in subsection (e) (as redesignated by paragraph (2))—

(A) in paragraph (1), by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)'';

(B) in paragraph (2), by striking ''subsection (g)'' and inserting ''subsection (f)'';

(C) in paragraph (3)(B), by striking ''subsection (a)(4)(A)'' and inserting ''subsection (a)(4)'';

(D) in paragraph (4), by striking ''subsection (g)'' and inserting ''subsection (f)'';

(E) in paragraph (5), by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(F) in paragraph (6)—

(i) by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(ii) by striking ''subsection (c)(1)(B)'' and inserting ''subsection (b)(1)(B)''; and

(6) in subsection (f) (as redesignated by paragraph (2))—

(A) in paragraph (1)—

(i) by striking ''paragraph (4)(B)'' and inserting ''paragraph (5)''; and

(ii) by striking ''subsection (f)(1)(A)'' and inserting ''subsection (e)(1)(A)''; and

(B) in paragraph (4)(B), by striking ''subsection (a)(4)(B)'' and inserting ''subsection (a)(5)''.

SEC. 148. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 174(a)(1) (29 U.S.C. 2919(a)(1)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

(b) RESERVATIONS.—Section 174(b) (29 U.S.C. 2919(b)) is amended to read as follows:

''(b) TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS, EVALUATIONS, INCENTIVE GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172, section 136(i), and section 503 such sums as may be necessary for each of fiscal years 2006 through 2011.

''(2) RESERVATION.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall, for each of the fiscal years 2006 through 2011, reserve not less than 25 percent for carrying out section 503.''.

(c) ASSISTANCE FOR ELIGIBLE WORKERS.—Section 174(c) (29 U.S.C. 2919(c)) is amended—

(1) in paragraphs (1)(A) and (2)(A), by striking ''subsection (a)(4)(A)'' and inserting ''subsection (a)(4)''; and

(2) in paragraphs (1)(B) and (2)(B), by striking ''subsection (a)(4)(B)'' and inserting ''subsection (a)(5)''.

Subtitle E—Administration

SEC. 151. REQUIREMENTS AND RESTRICTIONS.

Section 181(e) (29 U.S.C. 2931(e)) is amended by striking ''economic development activities,''.

SEC. 152. REPORTS.

Section 185(c) (29 U.S.C. 2935(c)) is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon;

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) shall have the option to submit or disseminate electronically any reports, records, plans, or any other data that are required to be collected or disseminated under this title.''.

SEC. 153. ADMINISTRATIVE PROVISIONS.

(a) ANNUAL REPORT.—Section 189(d) (29 U.S.C. 2939(d)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

''(4) the negotiated levels of performance of the States, the States' requests for adjustments of such levels, and the adjustments of such levels that are made; and''.

(b) AVAILABILITY.—Section 189(g)(2) (29 U.S.C. 2939(g)(2)) is amended, in the first sentence—

(1) by striking ''Funds'' and inserting ''Except as otherwise provided in this paragraph, funds''; and

(2) by striking ''each State receiving'' and inserting ''each recipient of''.

(c) GENERAL WAIVERS.—Section 189(i)(4) (29 U.S.C. 2939(i)(4)) is amended—

(1) in subparagraph (A)(i), by inserting ''the funding of infrastructure costs for one-stop centers,'' after ''local boards,'';

(2) in subparagraph (C), by striking ''90'' and inserting ''60''; and

(3) by adding at the end the following:

''(D) EXPEDITED REQUESTS.—The Secretary shall expedite requests for waivers of statutory or regulatory requirements that have been approved for a State pursuant to subparagraph (B), if the requirements of this paragraph have been satisfied.

''(E) SPECIAL RULE.—With respect to any State that has a waiver under this paragraph relating to the transfer authority under section 133(b)(4), and has the waiver in effect on the date of enactment of the Workforce Investment Act Amendments of 2005 or subsequently receives such a waiver, the waiver shall continue to apply for so long as the State meets or exceeds State performance measures relating to the indicators described in section 136(b)(2)(A)(i).''.

SEC. 154. USE OF CERTAIN REAL PROPERTY.

Section 193 (29 U.S.C. 2943) is amended to read as follows:

''SEC. 193. TRANSFER OF FEDERAL EQUITY IN STATE EMPLOYMENT SECURITY AGENCY REAL PROPERTY TO THE STATES.

''(a) TRANSFER OF FEDERAL EQUITY.—Notwithstanding any other provision of law, any Federal equity acquired in real property through grants to States awarded under title III of the Social Security Act (42 U.S.C. 501 et seq.) or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) is transferred to the States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act. Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act.

''(b) LIMITATION ON USE.—A State shall not use funds awarded under title III of the Social Security Act or the Wagner-Peyser Act to amortize the costs of real property that is purchased by any State on or after the effective date of this provision.''.

SEC. 155. GENERAL PROGRAM REQUIREMENTS.

Section 195 (29 U.S.C. 2945) is amended by adding at the end the following:

''(14) Funds provided under this title shall not be used to establish or operate fee-for-service enterprises that are not affiliated with the one-stop service delivery systems described in section 121(e) and that compete with private sector employment agencies (as defined in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e)).''.

SEC. 156. TABLE OF CONTENTS.

Section 1(b) (29 U.S.C. 9201 note) is amended—

(1) by striking the item relating to section 106 and inserting the following:

''Sec. 106. Purposes.'';

(2) by striking the item relating to section 123 and inserting the following:

''Sec. 123. Eligible providers of youth activities.'';

(3) by striking the item relating to section 169 and inserting the following:

''Sec. 169. Youth challenge grants.'';

(4) by striking the item relating to section 173 and inserting the following:

''Sec. 173. National dislocated worker grants.'';

(5) by striking the item relating to section 193 and inserting the following:

''Sec. 193. Transfer of Federal equity in State employment security agency real property to the States.'';

(6) by inserting after the item relating to section 243 the following:

''Sec. 244. Integrated English literacy and civics education.'';

and

(7) by striking the item relating to section 502.

Subtitle F—Incentive Grants

SEC. 161. INCENTIVE GRANTS.

Section 503 (20 U.S.C. 9273) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—

''(1) TIMELINE.—

''(A) PRIOR TO JULY 1, 2006.—Prior to July 1, 2006, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.

''(B) BEGINNING JULY 1, 2006.—Beginning on July 1, 2006, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

''(2) BASIS.—The Secretary shall award the grants on the basis that States—

''(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); or

''(B) have—

''(i) met the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); and

''(ii) demonstrated—

''(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

''(II) exemplary performance in serving hard-to-serve populations; or

''(III) effective—

''(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment activities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under title I as well as one-stop partner programs described in section 121;

''(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under title I;

''(cc) implementation of statewide coordination activities through agreements with relevant State agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(dd) statewide coordination through local workforce investment boards or areas;

''(ee) alignment of management information systems to integrate participant information across programs; or

''(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

''(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, including—

''(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

''(B) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(C) activities that support statewide economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

''(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

''(E) activities that support the development of a statewide integrated performance information system that includes common measures;

''(F) activities that align management information systems with integrated performance information across education and workforce programs; or

''(G) activities that support local workforce investment boards or areas in improving performance and program coordination.

''(4) WAIVER.—For States that have developed and implemented a statewide integrated performance information system with common measures, as described in paragraph (3)(E), for federally funded workforce and education programs, the Secretary may waive specified Federal reporting requirements for such State to be in compliance with reporting requirements under this Act and other workforce and education programs as the Secretary has authority or agreement to waive.

''(5) TECHNICAL ASSISTANCE.—The Secretary shall reserve 4 percent of the funds available for grants under this section to provide technical assistance to States to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and economic development.''; and

(2) by striking subsection (d).

Subtitle G—Conforming Amendments

SEC. 171. CONFORMING AMENDMENTS.

(a) OLDER AMERICANS ACT OF 1965.—Section 512(a) of the Older Americans Act of 1965 (42 U.S.C. 3056j(a)) is amended by striking ''(B)(vi)'' and inserting ''(B)(v)''.

(b) ADULT EDUCATION AND FAMILY LITERACY ACT.—Section 212(b)(3)(A)(vi) of the Adult Education and Family Literacy Act (20 U.S.C. 9212(b)(3)(A)(vi)) is amended by striking ''the representatives described in section 136(i)(1)'' and inserting ''representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, and participants (as defined in section 101), with expertise regarding workforce investment policies and workforce investment activities (as defined in section 101)''.

TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

SEC. 201. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Adult Education and Family Literacy Act Amendments of 2005''.

(b) PURPOSE.—Section 202 of the Adult Education and Family Literacy Act (20 U.S.C. 9201) is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon;

(2) in paragraph (3), by striking ''education.'' and inserting ''education and in the transition to postsecondary education; and''; and

(3) by adding at the end the following:

''(4) assist immigrants and other individuals with limited English proficiency in improving their reading, writing, speaking, and mathematics skills and acquiring an understanding of the American free enterprise system, individual freedom, and the responsibilities of citizenship.''.

SEC. 202. DEFINITIONS.

Section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''services or instruction below the postsecondary level'' and inserting ''academic instruction and education services below the postsecondary level that increase an individual's ability to read, write, and speak in English and perform mathematics''; and

(B) by striking subparagraph (C)(i) and inserting the following:

''(i) are basic skills deficient as defined in section 101;'';

(2) in paragraph (2), by striking ''activities described in section 231(b)'' and inserting ''programs and services which include reading, writing, speaking, or mathematics skills, workplace literacy activities, family literacy activities, English language acquisition activities, or other activities necessary for the attainment of a secondary school diploma or its State recognized equivalent'';

(3) in paragraph (5)—

(A) by inserting ''an organization that has demonstrated effectiveness in providing adult education, that may include'' after ''means'';

(B) in subparagraph (B), by striking ''of demonstrated effectiveness'';

(C) in subparagraph (C), by striking ''of demonstrated effectiveness''; and

(D) in subparagraph (I), by inserting ''or coalition'' after ''consortium'';

(4) in paragraph (6)—

(A) by striking ''LITERACY PROGRAM'' and inserting ''LANGUAGE ACQUISITION PROGRAM'';

(B) by striking ''literacy program'' and inserting ''language acquisition program''; and

(C) by inserting ''reading, writing, and speaking'' after ''competence in'';

(5) by striking paragraph (10);

(6) by redesignating paragraphs (7) through (9) and (12) through (18) as paragraphs (8) through (10) and (13) through (19), respectively;

(7) by inserting after paragraph (6) the following:

''(7) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).'';

(8) by inserting after paragraph (11) the following:

''(12) LIMITED ENGLISH PROFICIENCY.—The term 'limited English proficiency', when used with respect to an individual, means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

''(A) whose native language is a language other than English; or

''(B) who lives in a family or community environment where a language other than English is the dominant language.'';

(9) by striking paragraph (15), as redesignated by paragraph (6), and inserting the following:

''(15) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(10) by striking paragraph (19), as redesignated by paragraph (6), and inserting the following:

''(19) WORKPLACE LITERACY PROGRAM.—The term 'workplace literacy program' means an educational program designed to improve the productivity of the workforce through the improvement of literacy skills that is offered by an eligible provider in collaboration with an employer or an employee organization at a workplace, at an off-site location, or in a simulated workplace environment.''.

SEC. 203. HOME SCHOOLS.

Section 204 of the Adult Education and Family Literacy Act (20 U.S.C. 9203) is amended to read as follows:

''SEC. 204. HOME SCHOOLS.

''Nothing in this title shall be construed to affect home schools, whether a home school is treated as a home school or a private school under State law, or to compel a parent engaged in home schooling to participate in an English language acquisition program, family literacy services, or adult education.''.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Adult Education and Family Literacy Act (20 U.S.C. 9204) is amended—

(1) by striking ''1999'' and inserting ''2006''; and

(2) by striking ''2003'' and inserting ''2011''.

SEC. 205. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

Section 211 of the Adult Education and Family Literacy Act (20 U.S.C. 9211) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

''(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed $10,000,000;

''(2) shall reserve 1.5 percent to carry out section 243 and subsection (f)(4), except that the amount so reserved shall not exceed $8,000,000;

''(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 136(i); and

''(4) shall reserve 12 percent of the amount that remains after reserving funds under paragraphs (1), (2) and (3) to carry out section 244.'';

(2) in subsection (c)(2)—

(A) by inserting ''and the sole agency responsible for administering or supervising policy for adult education and literacy in the Republic of Palau'' after ''an initial allotment under paragraph (1)'';

(B) by inserting ''or served by the agency for the Republic of Palau'' after ''by the eligible agency''; and

(C) by striking ''States and outlying areas'' and inserting ''States, outlying areas, and the Republic of Palau'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

(ii) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, or'' and inserting ''or''; and

(B) in paragraph (3)—

(i) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

(ii) by striking ''2001'' and inserting ''2007''; and

(4) by striking subsection (f) and inserting the following:

''(f) HOLD-HARMLESS PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (c) and subject to paragraph (2), for fiscal year 2005 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this section.

''(2) 100 PERCENT ALLOTMENT.—Notwithstanding paragraphs (1) and (2) of subsection (e), an eligible agency that receives only an initial allotment under subsection (c)(1) (and no additional allotment under subsection (c)(2)) shall receive an allotment under this section that is equal to 100 percent of the initial allotment under subsection (c)(1).

''(3) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraphs (1) and (2), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

''(4) ADDITIONAL ASSISTANCE.—

''(A) IN GENERAL.—From amounts reserved under subsection (a)(2), the Secretary shall make grants to eligible agencies described in subparagraph (B) to enable such agencies to provide activities authorized under chapter 2.

''(B) ELIGIBILITY.—An eligible agency is eligible to receive a grant under this paragraph for a fiscal year if the amount of the allotment such agency receives under this section for the fiscal year is less than the amount such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year.

''(C) AMOUNT OF GRANT.—The amount of a grant made to an eligible agency under this paragraph for a fiscal year shall be the difference between—

''(i) the amount of the allotment such agency would have received for the fiscal

year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year; and

''(ii) the amount of the allotment such agency receives under this section for the fiscal year.''.

SEC. 206. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 212 of the Adult Education and Family Literacy Act (20 U.S.C. 9212) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(ii), by striking ''additional indicators of performance (if any)'' and inserting ''the employment performance indicators'';

(B) by striking paragraph (2) and inserting the following:

''(2) INDICATORS OF PERFORMANCE.—

''(A) CORE INDICATORS OF PERFORMANCE.—An eligible agency shall identify in the State plan individual academic performance indicators that include, at a minimum, the following:

''(i) Measurable improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

''(ii) Placement in, retention in, or completion of, postsecondary education or other training programs.

''(iii) Completion of a secondary school diploma, its recognized equivalent, or a recognized alternative standard for individuals with disabilities.

''(B) EMPLOYMENT PERFORMANCE INDICATORS.—

''(i) IN GENERAL.—An eligible agency shall identify in the State plan individual participant employment performance indicators that include, at a minimum, the following:

''(I) Entry into unsubsidized employment.

''(II) Retention in unsubsidized employment 6 months after entry into the employment.

''(III) Increases in earnings from unsubsidized employment.

(ii) DATA COLLECTION.—The State workforce investment board shall assist the eligible agency in obtaining and using quarterly wage records to collect data for each of the indicators described in clause (i), consistent with applicable Federal and State privacy laws.

''(C) INDICATORS FOR WORKPLACE LITERACY PROGRAMS.—Special accountability measures may be negotiated for workplace literacy programs.''; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i)(II), by striking ''in performance'' and inserting ''the agency's performance outcomes in an objective, quantifiable, and measurable form'';

(II) in clause (ii), by striking ''3 programs years'' and inserting ''2 program years'';

(III) in clause (iii), by striking ''FIRST 3 YEARS'' and inserting ''FIRST 2 YEARS'';

(IV) in clause (iii), by striking ''first 3 program years'' and inserting ''first 2 program years'';

(V) in clause (v), by striking ''4TH AND 5TH'' and inserting ''3RD AND 4TH'';

(VI) in clause (v), by striking ''to the fourth'' and inserting ''to the third'';

(VII) in clause (v), by striking ''fourth and fifth'' and inserting ''third and fourth''; and

(VIII) in clause (vi), by striking ''(II)'' and inserting ''(I)'';

(ii) in subparagraph (B)—

(I) by striking the heading and inserting ''LEVELS OF EMPLOYMENT PERFORMANCE'';

(II) by striking ''may'' and inserting ''shall''; and

(III) by striking ''additional'' and inserting ''employment performance''; and

(iii) by adding at the end the following:

''(C) ALTERNATIVE ASSESSMENT SYSTEMS.—Eligible agencies may approve the use of assessment systems that are not commercially available standardized systems if such systems meet the Standards for Educational and Psychological Testing issued by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ''the Governor, the State legislature, and the State workforce investment board'' after ''Secretary''; and

(ii) by striking ''including'' and all that follows through the period and inserting ''including the following:

''(A) Information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance, and employment performance indicators.

''(B) Information on the number or percentage of qualifying adults (as defined in section 211(d)) who are participants in adult education programs under this subtitle and making satisfactory progress toward 1 or more of each of the following:

''(i) Core indicators of performance.

''(ii) Employment performance indicators.

''(iii) Other long-term objectives.

''(C) The number and type of each eligible provider that receives funding under such grant.

''(D) The number of enrollees 16 to 18 years of age who enrolled in adult education not later than 1 year after participating in secondary school education.'';

(B) in paragraph (2)(A), by inserting ''eligible providers and'' after ''available to''; and

(C) by adding at the end the following:

''(3) DATA ACCESS.—The report made available under paragraph (2) shall indicate which eligible agencies did not have access to State unemployment insurance wage data in measuring employment performance indicators.''; and

(3) by adding at the end the following:

''(d) PROGRAM IMPROVEMENT.—

''(1) IN GENERAL.—If the Secretary determines that an eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A) for any program year, the eligible agency shall—

''(A) work with the Secretary to develop and implement a program improvement plan for the 2 program years succeeding the program year in which the eligible agency did not meet its adjusted levels of performance; and

''(B) revise its State plan under section 224, if necessary, to reflect the changes agreed to in the program improvement plan.

''(2) FURTHER ASSISTANCE.—If, after the period described in paragraph (1)(A), the Secretary has provided technical assistance to the eligible agency but determines that the eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A), the Secretary may require the eligible agency to make further revisions to the program improvement plan described in paragraph (1). Such further revisions shall be accompanied by further technical assistance from the Secretary.''.

SEC. 207. STATE ADMINISTRATION.

Section 221(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9221(1)) is amended by striking ''and implementation'' and inserting ''implementation, and monitoring''.

SEC. 208. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

Section 222 of the Adult Education and Family Literacy Act (20 U.S.C. 9222) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''82.5'' the first place such term appears and inserting ''80''; and

(ii) by striking ''the 82.5 percent'' and inserting ''such amount'';

(B) in paragraph (2), by striking ''not more than 12.5 percent'' and inserting ''not more than 15 percent''; and

(C) in paragraph (3), by striking ''$65,000'' and inserting ''$75,000''; and

(2) in subsection (b)(1), by striking ''equal to'' and inserting ''that is not less than''.

SEC. 209. STATE LEADERSHIP ACTIVITIES.

Section 223 of the Adult Education and Family Literacy Act (20 U.S.C. 9223) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''to develop or enhance the adult education system of the State or outlying area'' after ''activities'';

(B) in paragraph (1), by striking ''instruction incorporating'' and all that follows through the period and inserting ''instruction incorporating the essential components of reading instruction and instruction provided by volunteers or by personnel of a State or outlying area.'';

(C) in paragraph (2), by inserting '', including development and dissemination of instructional and programmatic practices based on the most rigorous research available in reading, writing, speaking, mathematics, English language acquisition programs, distance learning, and staff training'' after ''activities'';

(D) in paragraph (5), by striking ''monitoring and'';

(E) by striking paragraph (6) and inserting the following:

''(6) The development and implementation of technology applications, translation technology, or distance learning, including professional development to support the use of instructional technology.''; and

(F) by striking paragraph (7) through paragraph (11) and inserting the following:

''(7) Coordination with—

''(A) other partners carrying out activities authorized under this Act; and

''(B) existing support services, such as transportation, child care, mental health services, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, for adults enrolled in such activities.

''(8) Developing and disseminating curricula, including curricula incorporating the essential components of reading instruction as such components relate to adults.

''(9) The provision of assistance to eligible providers in developing, implementing, and reporting measurable progress in achieving the objectives of this subtitle.

''(10) The development and implementation of a system to assist in the transition from adult basic education to postsecondary education, including linkages with postsecondary educational institutions.

''(11) Integration of literacy and English language instruction with occupational skill training, and promoting linkages with employers.

''(12) Activities to promote workplace literacy programs.

''(13) Activities to promote and complement local outreach initiatives described in section 243(b)(3)(F).

''(14) In cooperation with efforts funded under sections 242 and 243, the development

of curriculum frameworks and rigorous content standards that—

''(A) specify what adult learners should know and be able to do in the areas of reading and language arts, mathematics, and English language acquisition; and

''(B) take into consideration the following:

''(i) State academic standards established under section 1111(b) of the Elementary and Secondary Education Act of 1965.

''(ii) The current adult skills and literacy assessments used in the State or outlying area.

''(iii) The core indicators of performance established under section 212(b)(2)(A).

''(iv) Standards and academic requirements for enrollment in non-remedial, for-credit, courses in postsecondary education institutions supported by the State or outlying area.

''(v) Where appropriate, the basic and literacy skill content of occupational and industry skill standards widely used by business and industry in the State or outlying area.

''(15) In cooperation with efforts funded under sections 242 and 243, development and piloting of—

''(A) new assessment tools and strategies that—

''(i) are based on scientifically based research, where available and appropriate; and

''(ii) identify the needs and capture the gains of students at all levels, with particular emphasis on—

''(I) students at the lowest achievement level;

''(II) students who have limited English proficiency; and

''(III) adults with learning disabilities;

''(B) options for improving teacher quality and retention; and

''(C) assistance in converting research into practice.

''(16) The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or limited English proficiency.

''(17) Other activities of statewide significance that promote the purpose of this title.''; and

(2) in subsection (c), by striking ''being State- or outlying area-imposed'' and inserting ''being imposed by the State or outlying area''.

SEC. 210. STATE PLAN.

Section 224 of the Adult Education and Family Literacy Act (20 U.S.C. 9224) is amended—

(1) in subsection (a)—

(A) by striking the heading and inserting ''4-YEAR PLANS''; and

(B) in paragraph (1), by striking ''5'' and inserting ''4'';

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''and the role of provider and cooperating agencies in preparing the assessment'' after ''serve'';

(B) by striking paragraph (2) and inserting the following:

''(2) a description of how the eligible agency will address the adult education and literacy needs identified under paragraph (1) in each workforce development area of the State, using funds received under this subtitle, as well as other Federal, State, or local funds received in partnership with other agencies for the purpose of adult literacy as applicable;'';

(C) in paragraph (3)—

(i) by inserting ''and measure'' after ''evaluate'';

(ii) by inserting ''and improvement'' after ''effectiveness''; and

(iii) by striking ''212'' and inserting ''212, including—

''(A) how the eligible agency will evaluate and measure annually such effectiveness on a grant-by-grant basis; and

''(B) how the eligible agency—

''(i) will hold eligible providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs under this subtitle and regarding the core indicators of performance described in section 212(b)(2)(A); and

''(ii) will use technical assistance, sanctions, and rewards (including allocation of grant funds based on performance and termination of grant funds based on performance)'';

(D) by redesignating paragraphs (5) through (12) as paragraphs (6) through (13), respectively;

(E) by inserting after paragraph (4) the following:

''(5) a description of how the eligible agency will improve teacher quality, the professional development of eligible providers, and instruction;'';

(G) in paragraph (6) (as redesignated by subparagraph (D)), by striking ''who'' and all that follows through the semicolon and inserting ''that—

''(A) offers flexible schedules and coordinates with necessary Federal, State, and local support services (such as child care, transportation, mental health services, and case management) to enable individuals, including individuals with disabilities or individuals with other special needs, to participate in adult education and literacy activities; and

''(B) attempts to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;'';

(H) in paragraph (10) (as redesignated by subparagraph (D)), by striking ''plan;'' and inserting ''plan, which process—

''(A) shall include the State Workforce Investment Board, the Governor, State officials representing public schools, community colleges, welfare agencies, agencies that provide services to individuals with disabilities, other State agencies that promote or operate adult education and literacy activities, and direct providers of such adult literacy services; and

''(B) may include consultation with the State agency for higher education, institutions responsible for professional development of adult education and literacy education program instructors, institutions of higher education, representatives of business and industry, refugee assistance programs, and community-based organizations (as such term is defined in section 101);'';

(I) in paragraph (11) (as redesignated by subparagraph (D))—

(i) by inserting ''assess potential population needs and'' after ''will'';

(ii) in subparagraph (A), by striking ''students'' and inserting ''individuals'';

(iii) in subparagraph (C), by striking ''and'' after the semicolon; and

(iv) by adding at the end the following:

''(E) the unemployed; and

''(F) those individuals who are employed, but at levels below self-sufficiency, as defined in section 101.'';

(J) in paragraph (12) (as redesignated by subparagraph (D))—

(i) by inserting ''and how the plan submitted under this subtitle is coordinated with the plan submitted by the State under title I'' after ''eligible agency''; and

(ii) by striking ''and'' after the semicolon;

(K) in paragraph (13) (as redesignated by subparagraph (D)), by striking ''231(c)(1).'' and inserting ''231(c)(1), including—

''(A) how the State will build the capacity of organizations that provide adult education and literacy activities; and

''(B) how the State will increase the participation of business and industry in adult education and literacy activities;''; and

(L) by adding at the end the following:

''(14) a description of how the eligible agency will consult with any State agency responsible for postsecondary education to develop adult education programs and services (including academic skill development and support services) that prepare students to enter postsecondary education upon the attainment of a secondary school diploma or its recognized equivalent;

''(15) a description of how the eligible agency will consult with the State agency responsible for workforce development to develop adult education programs and services that are designed to prepare students to enter the workforce; and

''(16) a description of how the eligible agency will improve the professional development of eligible providers of adult education and literacy activities.'';

(3) in subsection (c), by adding at the end the following: ''At the end of the first 2-year period of the 4-year State plan, the eligible agency shall review and, as needed, revise the 4-year State plan.''; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board'' after ''Governor''; and

(B) in paragraph (2), by striking ''comments'' and all that follows through the period and inserting ''comments regarding the State plan by the Governor, the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board, and any revision to the State plan, are submitted to the Secretary.''.

SEC. 211. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

Section 225 of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''basic education'' and inserting ''adult education and literacy activities'';

(B) in paragraph (2), by inserting ''and'' after the semicolon;

(C) by striking paragraph (3); and

(D) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (d), by striking ''DEFINITION OF CRIMINAL OFFENDER.—'' and inserting ''DEFINITIONS.—In this section:''.

SEC. 212. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

Section 231 of the Adult Education and Family Literacy Act (20 U.S.C. 9241) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''workplace literacy services'' and inserting ''workplace literacy programs''; and

(B) in paragraph (3), by striking ''literacy'' and inserting ''language acquisition''; and

(2) in subsection (e)—

(A) in paragraph (1), by inserting ''to be achieved annually on the core indicators of performance and employment performance indicators described in section 212(b)(2)'' after ''outcomes'';

(B) by striking paragraph (3) and inserting the following:

''(3) the commitment of the eligible provider to be responsive to local needs and to serve individuals in the community who were identified by the assessment as most in

need of adult literacy services, including individuals who are low-income, have minimal literacy skills, have learning disabilities, or have limited English proficiency;'';

(C) in paragraph (4)(B), by striking '', such as'' and all that follows through the semicolon and inserting ''that include the essential components of reading instruction;'';

(D) in paragraph (5), by striking ''research'' and inserting ''the most rigorous research available, including scientifically based research,'';

(E) in paragraph (7), by inserting '', when appropriate and based on the most rigorous research available, including scientifically based research,'' after ''real life contexts'';

(F) in paragraph (9), by inserting ''education, job training, and social service'' after ''other available'';

(G) in paragraph (10)—

(i) by inserting ''coordination with Federal, State, and local'' after ''schedules and''; and

(ii) by striking ''and transportation'' and inserting '', transportation, mental health services, and case management'';

(H) in paragraph (11)—

(i) by inserting ''measurable'' after ''report'';

(ii) by striking ''eligible agency'';

(iii) by inserting ''established by the eligible agency'' after ''performance measures''; and

(iv) by striking ''and'' after the semicolon;

(I) in paragraph (12), by striking ''literacy programs.'' and inserting ''language acquisition programs and civics education programs;''; and

(J) by adding at the end the following:

''(13) the capacity of the eligible provider to produce information on performance results, including enrollments and measurable participant outcomes;

''(14) whether reading, writing, speaking, mathematics, and English language acquisition instruction provided by the eligible provider are based on the best practices derived from the most rigorous research available;

''(15) whether the eligible provider's applications of technology and services to be provided are sufficient to increase the amount and quality of learning and lead to measurable learning gains within specified time periods; and

''(16) the capacity of the eligible provider to serve adult learners with learning disabilities.''.

SEC. 213. LOCAL APPLICATION.

Section 232 of the Adult Education and Family Literacy Act (20 U.S.C. 9242) is amended—

(1) in paragraph (1)—

(A) by inserting ''consistent with the requirements of this subtitle'' after ''spent''; and

(B) by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) information that addresses each of the considerations required under section 231(e).''.

SEC. 214. LOCAL ADMINISTRATIVE COST LIMITS.

Section 233 of the Adult Education and Family Literacy Act (20 U.S.C. 9243) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''and professional'' after ''personnel''; and

(B) by inserting ''development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation,'' after ''development,''; and

(2) in subsection (b)—

(A) by inserting ''and professional'' after ''personnel''; and

(B) by inserting ''development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation,'' after ''development,''.

SEC. 215. ADMINISTRATIVE PROVISIONS.

Section 241(b) of the Adult Education and Family Literacy Act (20 U.S.C. 9251(b)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''adult education and literacy activities'' each place the term appears and inserting ''activities under this subtitle''; and

(B) by striking ''was'' and inserting ''were''; and

(2) in paragraph (4)—

(A) by inserting ''not more than'' after ''this subsection for''; and

(B) by striking ''only''.

SEC. 216. NATIONAL INSTITUTE FOR LITERACY.

Section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9252) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''literacy'' and inserting ''effective literacy programs for children, youth, adults, and families'';

(B) in paragraph (2), by inserting ''and disseminates information on'' after ''coordinates''; and

(C) by striking paragraph (3)(A) and inserting the following:

''(A) coordinating and participating in the Federal effort to identify and disseminate information on literacy that is derived from scientifically based research, or the most rigorous research available, and effective programs that serve children, youth, adults, and families; and'';

(2) by striking subsection (b)(3) and inserting the following:

''(3) RECOMMENDATIONS.—The Interagency Group, in consultation with the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (e), shall plan the goals of the Institute and the implementation of any programs to achieve the goals. The Board may also request a meeting of the Interagency Group to discuss any recommendations the Board may make.'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''to establish'' and inserting ''to maintain'';

(II) in clause (i), by striking ''phonemic awareness, systematic phonics, fluency, and reading comprehension'' and inserting ''the essential components of reading instruction'';

(III) in clause (iii), by striking ''and'' after the semicolon;

(IV) in clause (iv), by inserting ''and'' after the semicolon; and

(V) by adding at the end the following:

''(v) a list of local adult education and literacy programs;'';

(ii) in subparagraph (C)—

(I) by striking ''reliable and replicable research'' and inserting ''reliable and replicable research as defined by the Institute of Education Sciences''; and

(II) by striking ''especially with the Office of Educational Research and Improvement in the Department of Education,'';

(iii) in subparagraph (D), by striking ''phonemic awareness, systematic phonics, fluency, and reading comprehension based on'' and inserting ''the essential components of reading instruction and'';

(iv) in subparagraph (H), by striking ''and'' after the semicolon;

(v) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

''(J) to work cooperatively with the Department of Education to assist States that are pursuing the implementation of standards-based educational improvements for adults through the dissemination of training, technical assistance, and related support and through the development and dissemination of related standards-based assessment instruments; and

''(K) to identify scientifically based research where available, or the most rigorous research available, on the effectiveness of instructional practices and organizational strategies relating to literacy programs on the acquisition of skills in reading, writing, English acquisition, and mathematics.''; and

(B) by adding at the end the following:

''(3) COORDINATION.—In identifying the reliable and replicable research the Institute will support, the Institute shall use standards for research quality that are consistent with those of the Institute of Education Sciences.'';

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking ''literacy programs'' and inserting ''language acquisition programs'';

(ii) in clause (ii), by striking ''literacy programs'' and inserting ''or have participated in or partnered with workplace literacy programs'';

(iii) in clause (iv), by inserting '', including adult literacy research'' after ''research'';

(iv) in clause (vi), by striking ''and'' after the semicolon;

(v) in clause (vii), by striking the period at the end and inserting ''; and''; and

(vi) by adding at the end the following:

''(viii) institutions of higher education.'';

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) review the biennial report submitted to Congress pursuant to subsection (k).''; and

(C) in paragraph (5), by striking the second sentence and inserting the following: ''A recommendation of the Board may be passed only by a majority of the Board's members present at a meeting for which there is a quorum.''; and

(5) in subsection (k)—

(A) by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''; and

(B) by striking ''The Institute shall submit a report biennially to'' and inserting ''Not later than 1 year after the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005, and biennially thereafter, the Institute shall submit a report to''.

SEC. 217. NATIONAL LEADERSHIP ACTIVITIES.

Section 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9253) is amended to read as follows:

''SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide.

''(b) PERMISSIVE ACTIVITIES.—The national leadership activities described in subsection (a) may include the following:

''(1) Technical assistance, including—

''(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

''(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult

education and literacy activities, including family literacy services, based on scientific evidence where available;

''(C) assistance in distance learning and promoting and improving the use of technology in the classroom;

''(D) assistance in developing valid, measurable, and reliable performance data, including data about employment and employment outcome, and using performance information for the improvement of adult education and literacy programs; and

''(E) assistance to help States, particularly low-performing States, meet the requirements of section 212.

''(2) A program of grants, contracts, or cooperative agreements awarded on a competitive basis to national, regional, or local networks of private nonprofit organizations, public libraries, or institutions of higher education to build the capacity of such networks' members to meet the performance requirements of eligible providers under this title and involve adult learners in program improvement.

''(3) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

''(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using the essential components of reading instruction based on the work of the National Institute of Child Health and Human Development;

''(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

''(C) carrying out rigorous research, including scientifically based research where appropriate, on national literacy basic skill acquisition for adult learning, including estimating the number of adults functioning at the lowest levels of literacy proficiency;

''(D)(i) carrying out demonstration programs;

''(ii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs; and

''(iii) developing and replicating best practices and innovative programs, including—

''(I) the development of models for basic skill certificates;

''(II) the identification of effective strategies for working with adults with learning disabilities and with adults with limited English proficiency;

''(III) integrated basic and workplace skills education programs;

''(IV) coordinated literacy and employment services; and

''(V) postsecondary education transition programs;

''(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

''(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

''(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

''(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

''(iv) the extent to which different types of providers measurably improve the skills of participants in adult education and literacy programs;

''(F) supporting efforts aimed at capacity building of programs at the State and local levels such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

''(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems;

''(H) supporting the development of an entity that would produce and distribute technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397 of the Communications Act of 1934 (47 U.S.C. 397)) and expand the effective outreach and use of such programs and materials to adult education eligible providers;

''(I) determining how participation in adult education and literacy activities prepares individuals for entry into postsecondary education and employment and, in the case of prison-based services, has an effect on recidivism; and

''(J) other activities designed to enhance the quality of adult education and literacy activities nationwide.''.

SEC. 218. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

Chapter 4 of subtitle A of title II (29 U.S.C. 9251 et seq.) is amended by adding at the end the following:

''SEC. 244. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

''(a) IN GENERAL.—From funds made available under section 211(a)(4) for each fiscal year, the Secretary shall award grants to States, from allotments under subsection (b), for integrated English literacy and civics education.

''(b) ALLOTMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), from amounts made available under section 211(a)(4) for a fiscal year, the Secretary shall allocate—

''(A) 65 percent to the States on the basis of a State's need for integrated English literacy and civics education as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years; and

''(B) 35 percent to the States on the basis of whether the State experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available.

''(2) MINIMUM.—No State shall receive an allotment under paragraph (1) in an amount that is less than $60,000.''.

SEC. 219. TRANSITION.

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of the Adult Education and Family Literacy Act (as amended by this title) from any authority under provisions of the Adult Education and Family Literacy Act (as such Act was in effect on the day before the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005).

TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 301. WAGNER-PEYSER ACT.

(a) CONFORMING AMENDMENT.—Section 2(3) of the Wagner-Peyser Act (29 U.S.C. 49a(3)) is amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(b) COLOCATION.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended by adding at the end the following:

''(d) In order to avoid duplication of services and enhance integration of services, employment services offices in each State shall be colocated with one-stop centers established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

''(e) The Secretary, in consultation with States, is authorized to assist in the development of national electronic tools that may be used to improve access to workforce information for individuals through—

''(1) the one-stop delivery systems established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

''(2) such other delivery systems as the Secretary determines to be appropriate.''.

(c) COOPERATIVE STATISTICAL PROGRAM.—Section 14 of the Wagner-Peyser Act (29 U.S.C. 491–1) is amended by striking the section heading and all that follows through ''There'' and inserting the following:

''SEC. 14. COOPERATIVE STATISTICAL PROGRAM.

''There''.

(d) WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.—Section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 15. WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.'';

(2) by striking ''employment statistics system'' each place it appears and inserting ''workforce and labor market information system'';

(3) in subsection (a)(1), by striking ''of employment statistics'';

(4) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''The'' and inserting the following:

''(A) STRUCTURE.—The''; and

(ii) by adding at the end the following:

''(B) GRANTS OR COOPERATIVE AGREEMENTS.—

''(i) IN GENERAL.—The Secretary shall carry out the provisions of this section in a timely manner through grants or cooperative agreements with States.

''(ii) DISTRIBUTION OF FUNDS.—With regard to distributing funds appropriated under subsection (g) (relating to workforce and labor market information funding) for fiscal years 2006 through 2011, the Secretary shall continue to distribute the funds to States in the manner in which the Secretary distributed funds to the States under this section for fiscal years 1999 through 2003.''; and

(B) in paragraph (2)(E)—

(i) in clause (i), by adding ''and'' at the end;

(ii) in clause (ii), by striking ''; and'' and inserting a period; and

(iii) by striking clause (iii);

(5) by striking subsections (c) and (d) and inserting the following:

''(c) TWO-YEAR PLAN.—The Secretary, working through the Commissioner of Labor Statistics, and in cooperation with the States and with the assistance of the Assistant Secretary for Employment and Training and heads of other appropriate Federal agencies, shall prepare a 2-year plan which shall be the mechanism for achieving cooperative

management of the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system. The plan shall—

''(1) describe the steps the to be taken in the following 2 years to carry out the duties described in subsection (b)(2);

''(2) evaluate the performance of the system and recommend needed improvements, with particular attention to the improvements needed at the State and local levels; and

''(3) describe the involvement of States in the development of the plan, through consultation between the Secretary and representatives from State agencies in accordance with subsection (d).

''(d) COORDINATION WITH THE STATES.—The Secretary, working though the Commissioner of Labor Statistics and in coordination with the Assistant Secretary for Employment and Training, shall consult at least annually with representatives of each of the Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State workforce and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).'';

(6) in subsection (e)(2)—

(A) in subparagraph (G), by adding ''and'' at the end;

(B) by striking subparagraph (H); and

(C) by redesignating subparagraph (I) as subparagraph (H); and

(7) in subsection (g), by striking ''1999 through 2004'' and inserting ''2006 through 2011''.

TITLE IV—REHABILITATION ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Rehabilitation Act Amendments of 2005''.

SEC. 402. TECHNICAL AMENDMENTS TO TABLE OF CONTENTS.

(a) EXPANDED TRANSITION SERVICES.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 110 the following:

''Sec. 110A. Reservation for expanded transition services.''.

(b) INCENTIVE GRANTS.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 112 the following:

''Sec. 113. Incentive grants.''.

(c) INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.—Section 1(b) of the Rehabilitation Act of 1973 is amended by striking the items relating to sections 752 and 753 and inserting the following:

''Sec. 752. Training and technical assistance.

''Sec. 753. Program of grants.

''Sec. 754. Authorization of appropriations.''.

SEC. 403. PURPOSE.

Section 2 of the Rehabilitation Act of 1973 (29 U.S.C. 701) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7)(A) a high proportion of youth who are individuals with disabilities is leaving special education without being employed or being enrolled in continuing education; and

''(B) there is a substantial need to support those youth as the youth transition from school to postsecondary life.''; and

(2) in subsection (b)—

(A) in paragraph (1)(F), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) to provide opportunities for employers and vocational rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.''.

SEC. 404. DEFINITIONS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (2)(B)—

(A) in the matter preceding clause (i), by inserting ''and literacy services'' after ''supported employment''; and

(B) in clause (iii), by inserting ''and literacy skills'' after ''educational achievements'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) ASSISTIVE TECHNOLOGY DEFINITIONS.—

''(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

''(B) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

''(C) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section—

''(i) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

''(ii) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.'';

(3) by striking paragraph (7) and inserting the following:

''(7) CONSUMER ORGANIZATION.—The term 'consumer organization' means a membership organization in which a majority of the organization's members and a majority of the organization's officers are individuals with disabilities.'';

(4) in paragraph (17)—

(A) in subparagraph (C), by striking ''and'' after the semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(E) maintaining individuals with significant disabilities in, or transitioning individuals with significant disabilities to, community-based living.'';

(5) by redesignating paragraphs (24) through (28), (29) through (34), (35) through (37), and (38) through (39), as paragraphs (25) through (29), (31) through (36), (38) through (40), and (42) through (43), respectively;

(6) by inserting after paragraph (23) the following:

''(24) LITERACY.—The term 'literacy' has the meaning given the term in section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202).'';

(7) by inserting after paragraph (29), as redesignated by paragraph (5), the following:

''(30) POST-EMPLOYMENT SERVICE.—The term 'post-employment' service means a service identified in section 103(a) that is—

''(A) provided subsequent to the achievement of an employment outcome; and

''(B) necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.'';

(8) by inserting after paragraph (36), as redesignated by paragraph (5), the following:

''(37) STUDENT WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'student with a disability' means an individual with a disability who attends an elementary school or secondary school and who—

''(i) is not younger than 16 years of age;

''(ii) is not older than 22 years of age;

''(iii) has been determined to be eligible under section 102(a) for assistance under title I; and

''(iv)(I) is eligible for, and receiving, special education or related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

''(II) is an individual with a disability, for purposes of section 504.

''(B) STUDENTS WITH DISABILITIES.—The term 'students with disabilities' means more than 1 student with a disability.'';

(9) in paragraph (38)(A)(ii), as redesignated by paragraph (5), by striking ''paragraph (36)(C)'' and inserting ''paragraph (39)(C)''; and

(10) by inserting after paragraph (40), as redesignated by paragraph (5), the following:

''(41) TRANSITION SERVICES EXPANSION YEAR.—The term 'transition services expansion year' means—

''(A) the first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) for fiscal year 2006 by not less than $100,000,000; and

''(B) each fiscal year subsequent to that first fiscal year.''.

SEC. 405. ADMINISTRATION OF THE ACT.

Section 12(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 709(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by adding at the end the following:

''(B) provide technical assistance to the designated State units on developing successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities; and

''(C) provide technical assistance on developing self-employment opportunities and outcomes for individuals with disabilities;''.

SEC. 406. REPORTS.

Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 710) is amended by adding at the end the following:

''(d)(1)(A) The Commissioner shall ensure that the reports, information, and data described in subparagraph (B) will be posted in a timely manner on the website of the Department of Education, in order to inform the public about the administration and performance of programs in each State under this Act.

''(B) The reports, information, and data referred to in subparagraph (A) shall consist of—

''(i) reports submitted by a designated State unit under this Act;

''(ii) accountability information (including State performance information relating to evaluation standards and performance indicators under section 106 and State performance information relating to State performance measures under section 136 of the Workforce Investment Act of 1998 (29 U.S.C. 2871)) submitted by a designated State unit under this Act or submitted under such section 136;

''(iii) data collected from each designated State unit under this Act with the approval of the Office of Management and Budget; and

''(iv) monitoring reports conducted under this Act.

''(C) The Commissioner shall maintain, and post on the website, a listing of the reports, information, and data required to be submitted by designated State units under this Act.

''(D) The Commissioner shall post on the website, or establish links on the website to, evaluations, studies, and audits, including evaluations, studies, and audits conducted by agencies of the Federal government, concerning programs carried out under this Act.

''(E) The Commissioner shall maintain on the website a list of the designated State units and shall establish links on the website to websites maintained by those units.

''(2) The Commissioner shall maintain public use read-only access to the State and aggregated reports and analyzed data filed and maintained on the Rehabilitation Services Administration management information system or a similar system maintained by the Department of Education.''.

SEC. 407. CARRYOVER.

Section 19 of the Rehabilitation Act of 1973 (29 U.S.C. 716) is amended—

(1) in subsection (a)(1)—

(A) by striking '', section 509 (except as provided in section 509(b))'';

(B) by striking ''or C''; and

(C) by striking ''752(b)'' and inserting ''753(b)''; and

(2) by adding at the end the following:

''(c) CLIENT ASSISTANCE PROGRAM; PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—

''(1) APPROPRIATED AMOUNTS.—Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out a grant program under section 112 or 509 (except as provided in section 509(b)), including any funds reallotted under such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

''(2) PROGRAM INCOME.—Notwithstanding any other provision of law, any amounts of program income received by recipients under a grant program under section 112 or 509 in a fiscal year that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available until expended.''.

Subtitle A—Vocational Rehabilitation Services

SEC. 411. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 412. STATE PLANS.

(a) IN GENERAL.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended—

(1) in paragraph (2), by adding at the end the following:

''(D) STATE AGENCY FOR REIMBURSEMENT PURPOSES.—A governing body of an Indian tribe that receives a grant under section 121 shall be considered, for purposes of the cost reimbursement provisions—

''(i) in section 222(d)(1) of the Social Security Act (42 U.S.C. 422(d)(1)), to be a State; and

''(ii) in subsections (d) and (e) of section 1615 of the Social Security Act (42 U.S.C. 1382d), to be a State agency described in subsection (d) of that section.'';

(2) in paragraph (6)(B), by striking ''to employ and advance in employment'' and inserting ''to recruit, employ, and advance in employment'';

(3) in paragraph (7)(A)(v), by striking subclause (I) and inserting the following:

''(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003); and'';

(4) in paragraph (10)—

(A) in subparagraph (B), by striking ''annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998'' and inserting ''annual reporting of information on eligible individuals receiving the services that is needed to assess performance on the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i))'';

(B) in subparagraph (C), by striking clauses (iii) and (iv) and inserting the following:

''(iii) the number of applicants and eligible recipients, including the number of individuals with significant disabilities, who exited the program carried out under this title and the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services; and

''(iv) the number of individuals who received vocational rehabilitation services who entered and retained employment and the earnings of such individuals, as such entry, retention, and earnings are defined for purposes of the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i)).''; and

(C) in subparagraph (E)(ii), by striking ''in meeting'' and all that follows through the period and inserting ''in meeting the standards and indicators established pursuant to section 106.'';

(5) in paragraph (11)—

(A) by striking subparagraph (C) and inserting the following:

''(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including the State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.'';

(B) by striking subparagraph (D)(ii) and inserting the following:

''(ii) transition planning by personnel of the designated State agency and the State educational agency that will facilitate the development and completion of the individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) and, as appropriate, the development and completion of the individualized plan for employment, in order to achieve post-school employment outcomes of students with disabilities;''; and

(C) by adding at the end the following:

''(G) COORDINATION WITH ASSISTIVE TECHNOLOGY PROGRAMS.—The State plan shall include an assurance that the designated State unit, and the lead agency and implementing agency (if any) designated by the Governor of the State under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), have developed working relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities described in that section.

''(H) COORDINATION WITH TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.—The State plan shall include an assurance that the designated State unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19).'';

(6) in paragraph (15)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) in subclause (II), by striking ''and'' after the semicolon;

(II) in subclause (III), by inserting ''and'' after the semicolon; and

(III) by adding at the end the following:

''(IV) for purposes of addressing needs in a transition services expansion year, students with disabilities, including their need for transition services;'';

(ii) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(iii) by inserting after clause (i) the following:

''(ii) include an assessment of the needs of individuals with disabilities for transition services provided under this Act, and coordinated with transition services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and an assessment as to whether the transition services provided under those Acts meet the needs of individuals with disabilities;''; and

(B) in subparagraph (D)—

(i) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(ii) by inserting after clause (ii) the following:

''(iii) for use in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to postsecondary life, including the receipt of vocational rehabilitation services under this title, postsecondary education, or employment;'';

(7) in paragraph (20)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by inserting after subparagraph (A) the following:

''(B) INFORMATION ON ASSISTANCE FOR BENEFICIARIES OF ASSISTANCE UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT.—The State plan shall include an assurance that the designated State agency will make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

''(i) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and medical assistance authorized under other federally funded programs;

''(ii) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

''(iii) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph

(B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B).''; and

(C) in subparagraph (C)(ii), as redesignated by subparagraph (A)—

(i) in subclause (II), by inserting '', to the maximum extent possible,'' after ''point of contact''; and

(ii) in subclause (III), by striking ''or regain'' and inserting ''regain, or advance in''; and

(8) by adding at the end the following:

''(25) SERVICES FOR STUDENTS WITH DISABILITIES.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State—

''(A) has developed and shall implement, in each transition services expansion year, strategies to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and

''(B) in each transition services expansion year—

''(i) shall not use more than 5 percent of the funds reserved under section 110A and available for this subparagraph, to pay for administrative costs; and

''(ii) shall use the remaining funds to carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities, through partnerships described in subparagraph (C), that—

''(I) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D);

''(II) improve the achievement of post-school goals of students with disabilities through the provision of transition services, including improving the achievement through participation (as appropriate when vocational goals are discussed) in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

''(III) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities;

''(IV) support the provision of training and technical assistance to local educational agency personnel responsible for the planning and provision of services to students with disabilities; and

''(V) support outreach activities to students with disabilities who are eligible for, and need, services under this title; and

''(C) in each transition services expansion year, shall ensure that the funds described in subparagraph (B)(ii) are awarded only to partnerships that—

''(i) shall include local vocational rehabilitation services providers and local educational agencies; and

''(ii) may include (or may have linkages with) other agencies such as employment, social service, and health organizations, that contribute funds for the provision of vocational rehabilitation services described in subparagraph (B)(ii) for eligible students with disabilities.''.

(b) CONSTRUCTION.—Section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721) is amended by adding at the end the following:

''(c) CONSTRUCTION.—

''(1) DEFINITIONS.—In this subsection, the terms 'child with a disability', 'free appropriate public education', 'related services', and 'special education' have the meanings given the terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

''(2) OBLIGATION TO PROVIDE OR PAY FOR TRANSITION SERVICES.—Nothing in this part shall be construed to reduce the obligation of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.''.

SEC. 413. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.

Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the semicolon at the end and inserting '', including a listing of all the community resources (including resources from consumer organizations), to the maximum extent possible, to assist in the development of such individual's individualized plan for employment to enable the individual to make informed and effective choices in developing the individualized plan for employment;''; and

(ii) in subparagraph (D)—

(I) in clause (i), by striking ''and'' after the semicolon;

(II) in clause (ii), by striking the period at the end and inserting a semicolon; and

(III) by adding at the end the following:

''(iii) for individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

''(I) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and medical assistance authorized under other federally funded programs;

''(II) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

''(III) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph (B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B).'';

(B) in paragraph (2)(E)—

(i) in clause (i)(II), by striking ''and'' after the semicolon;

(ii) in clause (ii), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) amended, as necessary, to include the post-employment services and service providers that are necessary for the individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.''; and

(C) in paragraph (3)—

(i) in subparagraph (B)(i)(I), by striking ''and personal assistance services'' and all that follows and inserting ''mentoring services, and personal assistance services, including training in the management of such services, and referrals described in section 103(a)(3) to the device reutilization programs and device demonstrations described in subparagraphs (B) and (D) of section 4(e)(2) of the Assistive Technology Act of 1998 (42 U.S.C. 3003(e)(2)) through agreements developed under section 101(a)(11)(G); and'';

(ii) in subparagraph (F)(ii), by striking ''and'' after the semicolon;

(iii) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(H) for an individual who is receiving assistance from an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), a list of the services that are listed in the individual work plan that the individual developed with the employment network under subsection (g) of that section.''; and

(2) in subsection (c)(7), by inserting ''that take into consideration the informed choice of the individual,'' after ''plan development''.

SEC. 414. VOCATIONAL REHABILITATION SERVICES.

Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting ''literacy services,'' after ''vocational adjustment services,'';

(B) by striking paragraph (15) and inserting the following:

''(15) transition services for students with disabilities, that facilitate the transition from school to postsecondary life (including employment through the achievement of the employment outcome identified in the individualized plan for employment), including, in a transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);'';

(C) in paragraph (17), by striking ''and'' after the semicolon;

(D) in paragraph (18), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(19) mentoring services.''; and

(2) in subsection (b), by striking paragraph (6) and inserting the following:

''(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

''(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

''(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(25)(B), to assist in the transition from school to postsecondary life, including employment.''.

SEC. 415. STATE REHABILITATION COUNCIL.

Section 105 of the Rehabilitation Act of 1973 (29 U.S.C. 725) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking clause (ix) and inserting the following:

''(ix) in a State in which one or more projects provide services under section 121, at least one representative of the directors of the projects;'';

(ii) in clause (x), by striking the ''and'' after the semicolon;

(iii) in clause (xi), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(xii) the director of the State's comprehensive statewide program of technology-related assistance funded under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003).''; and

(B) by striking paragraph (5) and inserting the following:

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.''; and

(2) in subsection (c)(6), by inserting before the semicolon the following: ''and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.)''.

SEC. 416. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

Section 106 of the Rehabilitation Act of 1973 (29 U.S.C. 726) is amended—

(1) in subsection (a), by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following:

''(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that include measures of the program's performance with respect to the transition from school to postsecondary life, including employment, and achievement of the postsecondary vocational goals, of students with disabilities served under the program.''; and

(2) in subsection (b)(2)(B)(i), by striking '', if necessary'' and all that follows through the semicolon and inserting '', if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance, which may include revising the plan to allocate a higher proportion of the State's resources for services to individuals with disabilities if the State agency's spending on such services is low in comparison to spending on such services by comparable agencies in other States;''.

SEC. 417. MONITORING AND REVIEW.

Section 107(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 727(b)(1)) is amended by inserting before the semicolon the following: '', including—

''(A) consulting with the Department of Labor, the Small Business Administration, other appropriate Federal agencies, and businesses or business-led intermediaries; and

''(B) based on information obtained through the consultations, providing technical assistance that improves that quality by enabling designated State units to develop successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities, and technical assistance on developing self-employment opportunities and improving outcomes for individuals with disabilities''.

SEC. 418. STATE ALLOTMENTS.

Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) is amended—

(1) by striking subsection (b) and inserting the following:

''(b)(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any amount from the payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

''(2)(A) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall reallot the amount available under paragraph (1) to other States, consistent with subparagraphs (B) and (C), for carrying out the purposes of this title to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes.

''(B)(i) The Commissioner shall reallot a portion of the amount available under paragraph (1) for a fiscal year to each State whose allotment under subsection (a) for such fiscal year is less than such State's allotment under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

''(ii)(I) A State that is eligible to receive a reallotment under clause (i) shall receive a portion for a fiscal year from the amount available for reallotment under paragraph (1) that is equal to the difference between—

''(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

''(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

''(II) If the amount available for reallotment under paragraph (1) is insufficient to provide each State eligible to receive a reallotment with the portion described in subclause (I), the amount reallotted to each eligible State shall be determined by the Commissioner.

''(C) If there are funds remaining after each State eligible to receive a reallotment under subparagraph (B)(i) receives the portion described in subparagraph (B)(ii), the Commissioner shall reallot the remaining funds among the States requesting a reallotment.

''(3) The Commissioner shall reallot an amount to a State under this subsection only if the State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

''(4) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.''; and

(2) by striking subsection (c)(2) and inserting the following:

''(2)(A) In this paragraph:

''(i) The term 'appropriated amount' means the amount appropriated under section 100(b)(1) for allotment under this section.

''(ii) The term 'covered year' means a fiscal year—

''(I) that begins after September 30, 2004; and

''(II) for which the appropriated amount exceeds the total of—

''(aa) the appropriated amount for the preceding fiscal year; and

''(bb) 0.075 percent of the appropriated amount for the preceding fiscal year.

''(B) For each covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(i) not less than the total of the sum reserved under this subsection for the preceding fiscal year and 0.1 percent of the appropriated amount for the covered year, subject to clause (ii); and

''(ii) not more than 1.5 percent of the appropriated amount for the covered year.

''(C) For each fiscal year that is not a covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(i) not less than the sum reserved under this subsection for the preceding fiscal year, subject to clause (ii); and

''(ii) not more than 1.5 percent of the appropriated amount for the covered year.''.

SEC. 419. RESERVATION FOR EXPANDED TRANSITION SERVICES.

The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following:

"SEC. 110A. RESERVATION FOR EXPANDED TRANSITION SERVICES.

''(a) RESERVATION.—From the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Commissioner under subsection (b) to carry out programs and activities under sections 101(a)(25)(B) and 103(b)(6).

''(b) CALCULATION.—The Commissioner shall calculate the amount to be reserved for such programs and activities for a fiscal year by each State by multiplying $50,000,000 by the percentage determined by dividing—

''(1) the amount allotted to that State under section 110 for the prior fiscal year; by

''(2) the total amount allotted to all States under section 110 for that prior fiscal year.''.

SEC. 420. CLIENT ASSISTANCE PROGRAM.

Section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''States'' and inserting ''agencies designated under subsection (c)''; and

(B) in the second sentence, by striking ''State'' and inserting ''State in which the program is located'';

(2) in subsection (b), by striking ''the State has in effect not later than October 1, 1984, a client assistance program which'' and inserting ''the State designated under subsection (c) an agency that'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''The Secretary'' and all that follows through the period and inserting the following: ''After reserving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section among the agencies designated under subsection (c) within the States (referred to individually in this subsection as a 'designated agency') on the basis of relative population of each State, except that no such agency shall receive less than $50,000.'';

(ii) in subparagraph (B), by inserting ''the designated agencies located in'' after ''each to'';

(iii) in subparagraph (D)(i)—

(I) by inserting ''the designated agencies located in'' after ''$100,000 for''; and

(II) by inserting ''the designated agencies located in'' after ''$45,000 for''; and

(iv) by adding at the end the following:

''(E)(i) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $13,000,000, the Secretary shall reserve funds appropriated under this section to make a grant to the protection and advocacy system serving the American Indian Consortium to provide client assistance services in accordance with this section. The amount of such a grant shall be the same amount as is provided to a territory under subparagraph (B), as increased under clauses (i) and (ii) of subparagraph (D).

''(ii) In this subparagraph:

''(I) The term 'American Indian Consortium' has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

''(II) The term 'protection and advocacy system' means a protection and advocacy

system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

''(F) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $14,000,000, the Secretary shall reserve not less than 1.8 percent and not more than 2.2 percent of such amount to provide a grant for training and technical assistance for the programs established under this section. Such training and technical assistance shall be coordinated with activities provided under section 509(c)(1)(A).''; and

(B) in paragraph (2)—

(i) by striking ''State'' each place such term appears and inserting ''designated agency''; and

(ii) by striking ''States'' each place such term appears and inserting ''designated agencies'';

(4) in subsection (f), by striking ''State'' and inserting ''agency designated under subsection (c)'';

(5) in subsection (g)(1), by striking ''State'' and inserting ''State in which the program is located''; and

(6) in subsection (h), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 421. INCENTIVE GRANTS.

Part B of title I of the Rehabilitation Act of 1973 (29 U.S.C. 730 et seq.) is amended by adding at the end the following:

''SEC. 113. INCENTIVE GRANTS.

''(a) AUTHORITY.—The Commissioner is authorized to make incentive grants to States that, based on the criteria established under subsection (b)(1), demonstrate—

''(1) a high level of performance; or

''(2) a significantly improved level of performance in a reporting period as compared to the previous reporting period or periods.

''(b) CRITERIA.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Commissioner shall establish, and publish in the Federal Register, criteria for making grant awards under subsection (a).

''(2) DEVELOPMENT AND EVALUATION STANDARDS.—The criteria established under paragraph (1) shall—

''(A) be developed with input from designated State agencies and other vocational rehabilitation stakeholders, including vocational rehabilitation consumers and consumer organizations; and

''(B) be based upon the evaluation standards and performance indicators established under section 106 and other performance-related measures that the Commissioner determines to be appropriate.

''(c) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use the grant funds for any approved activities in the State's State plan submitted under section 101.

''(d) NO NON-FEDERAL SHARE REQUIREMENT.—The provisions of sections 101(a)(3) and 111(a)(2) shall not apply to this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.''.

SEC. 422. VOCATIONAL REHABILITATION SERVICES GRANTS.

Section 121 of the Rehabilitation Act of 1973 (29 U.S.C. 741) is amended—

(1) in subsection (a), in the first sentence, by inserting '', consistent with such individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for, and engage in, gainful employment'' before the period at the end; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) contains assurances that—

''(i) all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of such services, will be made by a representative of the tribal vocational rehabilitation program; and

''(ii) such decisions will not be delegated to another agency or individual.'';

(B) in paragraph (3), by striking the first sentence and inserting the following: ''An application approved under this part that complies with the program requirements set forth in the regulations promulgated to carry out this part shall be effective for 5 years and shall be renewed for additional 5-year periods if the Commissioner determines that the grant recipient demonstrated acceptable past performance and the grant recipient submits a plan, including a proposed budget, to the Commissioner that the Commissioner approves that identifies future performance criteria, goals, and objectives.''; and

(C) by striking paragraph (4) and inserting the following:

''(4) In allocating funds under this part, the Secretary shall give priority to paying the continuation costs of projects in existence on the date of the allocation and may provide for increases in funding for such projects that the Secretary determines to be necessary.''.

SEC. 423. GAO STUDIES.

(a) STUDY ON TITLE I AND TICKET TO WORK.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the interaction of programs carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) with the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), including the impact of the interaction on beneficiaries, community rehabilitation programs (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)), and State vocational rehabilitation agencies.

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with all types of participants in the Ticket to Work and Self-Sufficiency Program, including the Social Security Administration, the Rehabilitation Services Administration, ticketholders, designated State agencies, entities carrying out such community rehabilitation programs (including employment networks and nonemployment networks), protection and advocacy agencies, MAXIMUS, and organizations representing the interests of ticketholders.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

(b) STUDY ON THE ALLOTMENT FORMULA.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the relationship between the State allotment formula under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) and the ability of States to provide vocational rehabilitation services in accordance with the States' State plans under section 101 of such Act (29 U.S.C. 721).

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with appropriate entities.

(3) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

Subtitle B—Research and Training

SEC. 431. DECLARATION OF PURPOSE.

Section 200(3) of the Rehabilitation Act of 1973 (29 U.S.C. 760(3)) is amended by inserting '', in a timely and efficient manner,'' before ''through''.

SEC. 432. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''; and

(2) in paragraph (2), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 433. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Section 202 of the Rehabilitation Act of 1973 (29 U.S.C. 762) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by inserting before the semicolon the following: '', including convening a national assistive technology summit, to be held at or in conjunction with a national conference relating to assistive technology with respect to all categories of disabilities''; and

(B) in paragraph (10), by striking ''and telecommuting'' and inserting '', supported employment, and telecommuting'';

(2) in subsection (f)(1)—

(A) by striking ''Federal employees'' and inserting ''Department of Education employees''; and

(B) by adding at the end the following: ''The peer review panel shall include a director of a designated State unit. It shall include a member of the covered school community (for an activity resulting in educational materials or a product to be used in a covered school), a member of the business community (for an activity resulting in a product to be used in an employment activity), assistive technology developers and manufacturers (for an activity relating to assistive technology), or information technology vendors and manufacturers (for an activity relating to information technology).'';

(3) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively;

(4) by inserting after subsection (h) the following:

''(i)(1) The Director, with the assistance of the Rehabilitation Research Advisory Council established under section 205, shall determine if entities that receive financial assistance under this title are complying with the applicable requirements of this Act and achieving measurable goals, described in section 204(d)(2), that are consistent with the requirements of the programs under which the entities received the financial assistance.

''(2) To assist the Director in carrying out the responsibilities described in paragraph (1), the Director shall require recipients of financial assistance under this title to submit relevant information to evaluate program outcomes with respect to the measurable goals described in section 204(d)(2).''; and

(5) by adding at the end the following:

''(m)(1) Not later than December 31 of each year, the Secretary shall prepare, and submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of

the Senate, a report on the activities funded under this title.

''(2) Such report shall include—

''(A) a compilation and summary of the information provided by recipients of financial assistance for such activities under this title; and

''(B) a summary of the applications for financial assistance received under this title and the progress of the recipients of financial assistance in achieving the measurable goals described in section 204(d)(2).

''(n)(1) If the Director determines that an entity that receives financial assistance under this title fails to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals described in section 204(d)(2), with respect to the covered activities involved, the Director shall assist the entity through technical assistance or other means, within 90 days after such determination, to develop a corrective action plan.

''(2) If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Director:

''(A) Partial or complete termination of financial assistance for the covered activities, until the entity develops and complies with such a plan.

''(B) Ineligibility to receive financial assistance for such covered activities for the following year.

''(3) The Secretary shall establish appeals procedures for entities described in paragraph (1) that the Secretary determines fail to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals.

''(4) As part of the annual report required under subsection (m), the Secretary shall describe each action taken by the Secretary under paragraph (1) or (2) and the outcomes of such action.''.

SEC. 434. INTERAGENCY COMMITTEE.

Section 203 of the Rehabilitation Act of 1973 (29 U.S.C. 763) is amended—

(1) in subsection (a)(1), by striking ''and the Director of the National Science Foundation'' and inserting ''the Director of the National Science Foundation, the Secretary of Commerce, and the Administrator of the Small Business Administration''; and

(2) in subsection (b)(2)—

(A) in subparagraph (D), by striking ''and'' after the semicolon;

(B) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(F) conduct a study, on the assistive technology industry, for which the Committee shall—

''(i) determine the number of individuals who use assistive technology and the scope of the technologies they use;

''(ii) separately identify categories of assistive technology companies by the disability group served, and the type of product or service provided, categorized by—

''(I) size (small, medium, and large) of the companies;

''(II) capitalization of the companies;

''(III) region in which the companies are located; and

''(IV) products or services produced by the companies;

''(iii) compile aggregate data on revenues and unit sales of such companies, including information on international sales, for a recent reporting period, categorized by institution or user type acquiring the products or services, disability for which the products or services are used, and industry segment for the companies;

''(iv) identify platform availability and usage, for those products and services that are electronic and information technology-related;

''(v) identify the types of clients of the companies, such as government, school, business, private payor, and charitable clients, and funding sources for the clients; and

''(vi) specify geographic segments for the companies, to determine whether there are significant distinctions in industry opportunities on the basis of geography, other than distinctions related to population.''.

SEC. 435. RESEARCH AND OTHER COVERED ACTIVITIES.

Section 204 of the Rehabilitation Act of 1973 (29 U.S.C. 764) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)—

(i) in clause (vi), by striking ''and'' after the semicolon;

(ii) in clause (vii), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(viii) studies, analyses, and other activities affecting employment outcomes, including self-employment and telecommuting, of individuals with disabilities.''; and

(B) by adding at the end the following:

''(3) In carrying out this section, the Director shall emphasize covered activities that are collaborations between—

''(A) for-profit companies working in the assistive technology, rehabilitative engineering, or information technology fields; and

''(B) States or public or private agencies and organizations.

''(4) In carrying out this section, the Director shall emphasize covered activities that include plans for—

''(A) dissemination of educational materials, research results, or findings, conclusions, and recommendations resulting from covered activities; or

''(B) the commercialization of marketable products resulting from the covered activities.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''(18)'' each place it appears and inserting ''(19)'';

(B) in paragraph (2)—

(i) in subparagraph (A)(i), by striking ''rehabilitation services or'' and inserting ''rehabilitation services, developers or providers of assistive technology devices, assistive technology services, or information technology devices or services, or providers of'' after ''rehabilitation services'';

(ii) in subparagraph (B)—

(I) in clause (i), by inserting ''improve the evaluation process for determining the assistive technology needs of individuals with disabilities,'' after ''conditions,'';

(II) in clause (ii), by inserting ''and assistive technology services'' before the semicolon; and

(III) in clause (iii), by inserting '', assistive technology services personnel,'' before ''and other'';

(iii) in subparagraph (C)—

(I) in clause (i), by inserting '', including research on assistive technology devices, assistive technology services, and accessible electronic and information technology devices'' before the semicolon; and

(II) in clause (iii), by inserting '', including the use of assistive technology devices and accessible electronic and information technology devices in employment'' before the semicolon;

(iv) in subparagraph (D), by inserting '', including training to provide knowledge about assistive technology devices, assistive technology services, and accessible electronic and information technology devices and services,'' after ''personnel''; and

(v) in subparagraph (G)(i), by inserting '', assistive technology-related, and accessible electronic and information technology-related'' before ''courses''; and

(C) in paragraph (3)—

(i) in subparagraph (D)(ii), by adding at the end the following: ''Each such Center conducting activities including the creation of an assistance technology device shall include in the committee representatives from the assistive technology industry and accessible electronic and information technology industry. Each such Center conducting activities involving a covered school, or an employer, shall include in the committee a representative of the covered school, or of the employer, respectively.''; and

(ii) in subparagraph (G)(ii) by inserting ''the success of any commercialized product researched or developed through the Center,'' after ''disabilities,'';

(D) in paragraph (8), by inserting ''the Department of Commerce, the Small Business Administration,'' before ''other Federal agencies,'';

(E) in paragraph (13), in the matter preceding clause (i), by striking ''employment needs of individuals with disabilities'' and inserting ''employment needs, opportunities, and outcomes, including self-employment, supported employment, and telecommuting needs, opportunities, and outcomes, of individuals with disabilities, including older individuals with disabilities, and students with disabilities who are transitioning from school to postsecondary life, including employment''; and

(E) by adding at the end the following:

''(19) Research grants may be used to provide for research and demonstration projects that—

''(A) explore methods and practices for promoting access to electronic commerce activities for individuals with disabilities; and

''(B) will—

''(i) ensure dissemination of research findings;

''(ii) provide encouragement and support for initiatives and new approaches by companies engaged in electronic commerce activities; and

''(iii) result in the establishment and maintenance of close working relationships between the disability, research, and business communities.'';

(3) in subsection (c)(2), by striking ''$500,000'' and inserting ''$750,000''; and

(4) by adding at the end the following:

''(d)(1) In awarding grants, contracts, or other financial assistance under this title, the Director shall award the financial assistance on a competitive basis.

''(2)(A) To be eligible to receive financial assistance described in paragraph (1) for a covered activity, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(B) The application shall include information describing—

''(i) measurable goals, and a timeline and specific plan for meeting the goals, that the applicant has set for addressing priorities related to—

''(I) commercialization of a marketable product (including a marketable curriculum or research) resulting from the covered activity;

''(II) in the case of a covered activity relating to technology, technology transfer;

''(III) in the case of research, dissemination of research results to, as applicable, government entities, individuals with disabilities, covered schools, the business community, the assistive technology community, and the accessible electronic and information technology community; and

''(IV) other matters as required by the Director; and

''(ii) information describing how the applicant will quantifiably measure the goals to determine whether the goals have been accomplished.

''(3)(A) In the case of an application for financial assistance under this title to carry out a covered activity that results in the development of a marketable product, the application shall also include a commercialization and dissemination plan, containing commercialization and marketing strategies for the product involved, and strategies for disseminating information about the product. The financial assistance shall not be used to carry out the commercialization and marketing strategies.

''(B) In the case of any other application for financial assistance to carry out a covered activity under this title, the application shall also include a dissemination plan, containing strategies for disseminating educational materials, research results, or findings, conclusions, and recommendations, resulting from the covered activity.''.

SEC. 436. REHABILITATION RESEARCH ADVISORY COUNCIL.

Section 205 of the Rehabilitation Act of 1973 (29 U.S.C. 765) is amended—

(1) in subsection (a), by inserting ''at least'' before ''12''; and

(2) in subsection (c), by inserting after ''rehabilitation researchers,'' the following: ''the directors of community rehabilitation programs, the business community (and shall include a representative of the small business community) that has experience with the system of vocational rehabilitation services carried out under this Act and with hiring individuals with disabilities, the community of assistive technology developers and manufacturers, the community of information technology vendors and manufacturers, the community of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.), the community of covered school professionals,''.

SEC. 437. DEFINITION.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 761 et seq.) is amended by adding at the end the following:

''SEC. 206. DEFINITION.

''In this title, the term 'covered school' means an elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), a community college, or an institution of higher education.''.

Subtitle C—Professional Development and Special Projects and Demonstrations

SEC. 441. TRAINING.

Section 302 of the Rehabilitation Act of 1973 (29 U.S.C. 772) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (F), by striking the ''and'' after the semicolon;

(B) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(H) personnel trained in providing assistive technology services.'';

(2) in subsection (b)(1)(B)(i), by striking ''or prosthetics and orthotics'' and inserting ''prosthetics and orthotics, rehabilitation teaching for the blind, or orientation and mobility instruction''; and

(3) in subsection (i), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 442. DEMONSTRATION AND TRAINING PROGRAMS.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) in subsection (b)(5)(A)(i), by striking ''special projects'' and inserting ''not less than 2 special projects'';

(2) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (i), respectively;

(3) by inserting after subsection (b) the following:

''(c) DEMONSTRATION PROJECTS FOR EMPLOYMENT OF STUDENTS WITH INTELLECTUAL DISABILITIES OR MENTAL ILLNESS.—

''(1) PURPOSE.—The purpose of this subsection is to support model demonstration projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness, and training for personnel that work with students described in this paragraph, to enable the students to gain employment skills and experience that will promote effective transitions from school to postsecondary life, including employment.

''(2) AWARDS AUTHORIZED.—

''(A) COMPETITIVE AWARDS AUTHORIZED.—The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to eligible organizations described in paragraph (3), to enable the organizations to carry out demonstration projects described in paragraph (1).

''(B) DURATION.—The Secretary shall award grants, contracts, and cooperative agreements under this subsection for periods of 3 to 5 years.

''(3) ELIGIBLE ORGANIZATIONS.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an organization shall—

''(A) have expertise in providing employment and support services for individuals with intellectual disabilities or individuals with mental illness;

''(B) have a proven track record in successfully running supported employment programs;

''(C) provide employment services that are exclusively integrated community-based supported employment services;

''(D) have expertise in creating natural supports for employment;

''(E) have expertise in providing computer training for the targeted population for the project involved; and

''(F) have experience operating mentoring programs for the target population in middle and high schools for at least a decade in diverse communities throughout the Nation.

''(4) APPLICATIONS.—Each organization desiring to receive a grant, contract, or cooperative agreement under this subsection shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may require. Each application shall include—

''(A) a description of how the organization plans to carry out the activities authorized in this subsection through a demonstration project;

''(B) a description of how the organization will evaluate the project;

''(C) a description of how the organization will disseminate information about the activities and the impact of the activities on the lives of students served by the project; and

''(D) a description of how the organization will coordinate activities with any other relevant service providers in the locality where the organization is based, including federally supported independent living centers.

''(5) AUTHORIZED ACTIVITIES.—An organization that receives a grant, contract, or cooperative agreement under this subsection shall use the funds made available through the grant, contract, or cooperative agreement to carry out 1 or more of the following activities for individuals, ages 14 through 21, who are students with intellectual disabilities or students with mental illness:

''(A) PROVIDING SUPPORTED AND COMPETITIVE EMPLOYMENT EXPERIENCES.—The development of innovative and effective supported and competitive employment experiences after school, on weekends, and in the summer, utilizing natural supports that lead to competitive high-paying jobs.

''(B) PROVIDING TRAINING TO SCHOOL AND TRANSITION PERSONNEL.—The development and deployment of experts to work with transition programs (including personnel working with students on transition) so that personnel from the programs develop skills needed to train students with intellectual disabilities or students with mental illness to be successful in competitive employment in a range of settings, including office settings. The training shall include training for the personnel in providing instruction to students in computer skills, office skills, interview etiquette, and appropriate social behavior required for successful long-term employment in professional environments.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007 through 2011.

''(d) DEMONSTRATION PROJECT FOR EMPLOYMENT OF INDIVIDUALS WHO ARE DEAF AND LOW FUNCTIONING.—

''(1) PURPOSE.—The purpose of this subsection is to support a model demonstration project to provide training and employment and support services for individuals who are deaf and low functioning to enable them to gain employment skills that will allow them to become employed and economically self-sufficient.

''(2) DEFINITION.—

''(A) IN GENERAL.—In this subsection, the term 'individual who is deaf and low functioning' means an individual who has been deaf from birth or very early childhood, reads at or below the second grade level, has little or no intelligible speech, and lacks a secondary school diploma or its recognized equivalent.

''(B) SECONDARY DISABILITIES.—Such term may include an individual with a secondary disability.

''(3) GRANTS AUTHORIZED.—

''(A) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may award grants to State agencies, other public agencies or organizations, or not-for-profit organizations with expertise in providing training and employment and support services for individuals who are deaf and low functioning to support model demonstration projects.

''(B) DURATION.—Grants under this subsection shall be awarded for a period not to exceed 5 years.

''(4) AUTHORIZED ACTIVITIES.—

''(A) DEVELOPING A COMPREHENSIVE TRAINING PROGRAM.—Each grant recipient under this subsection shall develop an innovative, comprehensive training program for individuals who are deaf and low functioning that can be implemented at multiple training locations through such means as distance learning and use of advanced technology, as appropriate. Such training program shall be developed to maximize the potential for replication of the program by other training providers.

''(B) IMPLEMENTATION.—Each grant recipient under this subsection shall implement the comprehensive training program developed under subparagraph (A) as soon as feasible. Such training shall provide instruction on the job and the social skills necessary for successful long-term employment of individuals who are deaf and low functioning.

''(C) ESTABLISHING A POST-TRAINING PROGRAM OF EMPLOYMENT AND SUPPORT SERVICES.—Each grant recipient under this subsection shall implement employment and

support services to assist individuals who complete the training program under subparagraph (A) in securing employment and transitioning to the workplace, for a period of not less than 90 days subsequent to placement in the employment.

''(5) APPLICATIONS.—Each entity desiring to receive a grant under this subsection for a model demonstration project shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require including—

''(A) a description of how the applicant plans to address the activities authorized under this subsection;

''(B) a description of the evaluation plan to be used in the model demonstration project;

''(C) a description of how the applicant will disseminate information about the training program developed and the results of the project; and

''(D) a description of how the entity will coordinate activities with any other relevant service providers or entities providing training and employment and support services for individuals who are deaf and low functioning.

''(6) MANDATED EVALUATION AND DISSEMINATION ACTIVITIES.—

''(A) ANNUAL REPORT.—Not later than 2 years after the date on which a grant under this subsection is awarded and annually thereafter, the grant recipient shall submit to the Commissioner a report containing information on—

''(i) the number of individuals who are participating in the demonstration project funded under this subsection;

''(ii) the employment and other skills being taught in the project;

''(iii) the number of individuals participating in the project that are placed in employment;

''(iv) the job sites in which those individuals are placed and the type of jobs the individuals are placed in; and

''(v) the number of individuals who have dropped out of the project and the reasons for their terminating participation in the project.

''(B) EVALUATION OF THE PROJECT.—Each grant recipient under this subsection shall implement the evaluation plan approved in its application for determining the results of the project within the timeframe specified in, and following the provisions of, the approved application.

''(C) PARTICIPANT EVALUATION PROCESS; FINAL EVALUATION.—In the final year of the project, the grant recipient will prepare and submit to the Commissioner a final evaluation report of the results of the model demonstration project containing—

''(i) information on—

''(I) the number of individuals who participated in the demonstration project;

''(II) the number of those individuals that are placed in employment;

''(III) the job sites in which those individuals were placed and the type of jobs the individuals were placed in;

''(IV) the number of those individuals who have dropped out of the project and the reasons for their terminating participation in the project; and

''(V) the number of those individuals who participated in the project and who remain employed as of 2 months prior to the date on which the final report is submitted to the Secretary;

''(ii) a written analysis of the project, including both the strengths and weaknesses of the project, to assist other entities in replicating the training program developed through the project; and

''(iii) such other information as the Secretary determines appropriate.

''(D) DISSEMINATION.—Not later than 5 years after the date on which a grant is awarded under this subsection, the evaluation report containing results of activities funded by such grant shall be disseminated to designated State agencies, school systems providing instruction to students who are individuals who are deaf and low functioning, supported employment providers, postsecondary vocational training programs, employers, the Social Security Administration, and other interested parties.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2011.

''(e) TRAINING AND TECHNICAL ASSISTANCE CENTER TO PROMOTE HIGH-QUALITY EMPLOYMENT OUTCOMES FOR INDIVIDUALS RECEIVING SERVICES FROM DESIGNATED STATE AGENCIES.—

''(1) IN GENERAL.—The Commissioner shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

''(A) responds to State-specific information requests concerning high-quality employment outcomes, from designated State agencies funded under title I, including—

''(i) requests for information on the expansion of self-employment, business ownership, and business development opportunities, and other types of entrepreneural employment opportunities for individuals with disabilities;

''(ii) requests for information on the expansion and improvement of transition services to facilitate the transition of students with disabilities from school to postsecondary life, including employment;

''(iii) requests for examples of policies, practices, procedures, or regulations, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

''(iv) requests for information on effective approaches to enhance informed choice and a consumer-directed State vocational rehabilitation system;

''(v) requests for assistance developing corrective action plans;

''(vi) requests for assistance in developing and implementing effective data collection and reporting systems that measure the outcomes of the vocational rehabilitation services, and preparing reports for the Commissioner as described in section 106(b)(1); and

''(vii) requests for information on effective approaches that enhance employment outcomes for individuals with disabilities, including conducting outreach and forming partnerships with business and industry; and

''(B) provides State-specific, regional, and national training and technical assistance concerning vocational rehabilitation services and related information to designated State agencies, including—

''(i) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect vocational rehabilitation programs authorized under title I;

''(ii) enabling the designated State agencies to coordinate training and data collection efforts with one-stop centers established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e));

''(iii) enabling the designated State agencies to provide information on how the vocational rehabilitation programs authorized under title I can provide technical assistance to the one-stop centers on making programs offered through the centers physically and programmatically accessible to individuals with disabilities;

''(iv) sharing evidence-based and promising practices among the vocational rehabilitation programs;

''(v) maintaining an accessible website that includes links to—

''(I) the vocational rehabilitation programs;

''(II) appropriate Federal departments and agencies, and private associations;

''(III) State assistive technology device and assistive technology service demonstration programs, device loan programs, device reutilization programs, alternative financing systems, or State financing activities, operated through, or independently of, comprehensive statewide programs of technology-related assistance carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), telework programs, and other programs that provide sources of funding for assistive technology devices; and

''(IV) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities;

''(vi) enhancing employment outcomes for individuals with mental illness and individuals with cognitive disabilities;

''(vii) convening experts from the vocational rehabilitation programs to discuss and make recommendations with regard to the employment of individuals with disabilities and national emerging issues of importance to individuals with vocational rehabilitation needs;

''(viii) enabling the designated State agencies to provide practical information on effective approaches for business and industry to use in employing individuals with disabilities, including provision of reasonable accommodations;

''(ix) providing information on other emerging issues concerning the delivery of publicly funded employment and training services and supports to assist individuals with disabilities to enter the workforce, achieve improved outcomes, and become economically self-sufficient; and

''(x) carrying out such other activities as the Secretary may require.

''(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an entity shall have (or agree to award a grant or contract to an entity that has)—

''(A) experience and expertise in administering vocational rehabilitation services;

''(B) documented experience with and knowledge about self-employment, business ownership, business development, and other types of entrepreneural employment opportunities and outcomes for individuals with disabilities, providing transition services for students with disabilities, and assistive technology; and

''(C) the expertise necessary to identify the additional data elements needed to provide comprehensive reporting of activities and outcomes of the vocational rehabilitation programs authorized under title I, and experience in utilizing data to provide annual reports.

''(3) COLLABORATION.—In developing and providing training and technical assistance under this subsection, a recipient of a grant, contract, or cooperative agreement under this subsection shall collaborate with other organizations, in particular—

''(A) agencies carrying out vocational rehabilitation programs under title I and national organizations representing such programs;

''(B) organizations representing individuals with disabilities;

''(C) organizations representing State officials and agencies engaged in the delivery of assistive technology;

''(D) relevant employees from Federal departments and agencies, other than the Department of Education;

''(E) representatives of businesses;

''(F) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services; and

''(G) family members, guardians, advocates, and authorized representatives of such individuals.'';

(4) by inserting after subsection (g), as redesignated by paragraph (2), the following:

''(h) ACCESS TO TELEWORK.—

''(1) DEFINITION OF TELEWORK.—In this subsection, the term 'telework' means work from home and other telework sites with the assistance of a computer and with reasonable accommodations, including the necessary equipment to facilitate successful work from home and other telework sites.

''(2) AUTHORIZATION OF PROGRAM.—The Commissioner is authorized to make grants to States and governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay for the Federal share of the cost of establishing or expanding a telework program.

''(3) APPLICATION.—A State or Indian tribe that desires to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall establish or expand a telework program that shall provide assistance through loans or other alternative financing mechanisms to individuals with disabilities. The State or Indian tribe shall provide the assistance through the program to enable such individuals to purchase computers or other equipment, including adaptive equipment, to facilitate access to employment and enhance employment outcomes by providing the individual with the opportunity—

''(i) to work from home or other telework sites so that such individuals are able to telework; or

''(ii) to become self-employed on a full-time or part-time basis from home or other telework sites.

''(B) DEVELOPMENT OF TELEWORK OPPORTUNITIES AND BUSINESS PLANS.—A State or Indian tribe that receives a grant under this subsection may use not more than 10 percent of the grant award to develop telework opportunities with employers and assist in the development of business plans for individuals with disabilities interested in self-employment, before such individuals apply for assistance through the telework program.

''(C) SELF EMPLOYMENT.—A State or Indian tribe that receives a grant under this subsection shall enter into cooperative agreements with small business development centers for the development of business plans as described in section 103(a)(13) for individuals described in subparagraph (B), and provide assurances that the State or Indian tribe will, through plans to achieve self-support, vocational rehabilitation services, or other means, identify ways for the individuals described in subparagraph (B) to pay for the development of business plans, before such individuals apply for assistance through the telework program.

''(D) DEFINITIONS.—In this paragraph:

''(i) PLAN TO ACHIEVE SELF-SUPPORT.—The term 'plan to achieve self-support' means a plan described in sections 416.1180 through 416.1182 of title 20, Code of Federal Regulations (or any corresponding similar regulation or ruling).

''(ii) SMALL BUSINESS DEVELOPMENT CENTER.—The term 'small business development center' means a center established under section 21 of the Small Business Act (15 U.S.C. 648).

''(5) FEDERAL SHARE.—The Federal share of the cost of establishing or expanding a telework program under this section shall be 10 percent of the cost.

''(6) EXISTING GRANT RECIPIENTS.—An entity that receives a grant under the Access to Telework Fund Program under subsection (b) for a fiscal year may use the funds made available through that grant for that fiscal year in accordance with this subsection rather than subsection (b).

''(7) ANNUAL REPORT.—

''(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall prepare and submit an annual report to the Commissioner.

''(B) CONTENTS.—The report under subparagraph (A) shall include the following:

''(i) Information on the characteristics of each individual with a disability that receives assistance through a loan or other alternative financing mechanism under the program, including information about the individual such as the following:

''(I) Age.

''(II) Ethnicity.

''(III) Employment status at the time of application for assistance through a loan or other alternative financing mechanism under this subsection.

''(IV) Whether the individual attempted to secure financial support from other sources to enable the individual to telework and, if so, a description of such sources.

''(V) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, the hourly salary the individual receives, and the hourly salary of the individual prior to receiving assistance through a loan or other alternative financing mechanism under the program.

''(VI) Whether the individual has repaid assistance from the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted on the assistance from the loan or other alternative financing mechanism.

''(ii) An analysis of the individuals with disabilities that have benefited from the program.

''(iii) Any other information that the Commissioner may require.''; and

(5) in subsection (i), as redesignated by paragraph (2)—

(A) by striking ''this section'' and inserting ''this section (other than subsections (c) and (d))''; and

(B) by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 443. DISABILITY CAREER PATHWAYS PROGRAM.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) by redesignating subsection (i) (as redesignated by section 442(2) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

''(i) GRANTS FOR DISABILITY CAREER PATHWAYS PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

''(B) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a center for independent living funded under subtitle C of title VII.

''(C) COVERED INSTITUTION.—The term 'covered institution' means—

''(i) a secondary school; and

''(ii) in the discretion of the eligible consortium involved, an institution of higher education.

''(D) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium described in paragraph (3)(A).

''(E) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(2) PURPOSE OF PROGRAM.—The Commissioner may establish a Disability Career Pathways program, through which the Commissioner may make grants, for periods of up to 5 years, to institutions of higher education that establish eligible consortia, to enable the consortia to develop and carry out training and education related to disability studies and leadership development. The consortia shall provide the training and education for the purpose of providing career pathways for students at a covered institution, in fields pertinent to individuals with disabilities, and particularly pertinent to the employment of individuals with disabilities.

''(3) APPLICATION.—To be eligible to receive a grant under this subsection on behalf of a consortium, an institution of higher education shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including information demonstrating—

''(A) that the institution of higher education has established a consortium of members that represent—

''(i) the institution of higher education;

''(ii) a community college;

''(iii) a secondary school;

''(iv) a center for independent living;

''(v) a designated State agency;

''(vi) a one-stop center established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

''(vii) the local business community;

''(B) the collaborative working relationships between the institution of higher education and the other members of the consortium, and describing the activities that each member shall undertake; and

''(C) the capacity and expertise of the institution of higher education—

''(i) to coordinate training and education related to disability studies and leadership development with educational institutions and disability-related organizations; and

''(ii) to conduct such training and education effectively.

''(4) DISTRIBUTION OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that the grants shall be distributed for a geographically diverse set of eligible consortia throughout all regions.

''(5) MANDATORY USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium shall ensure that the consortium shall use the grant funds to—

''(A) encourage interest in, enhance awareness and understanding of, and provide educational opportunities in, disability-related fields, and encourage leadership development among students at a covered institution, including such students who are individuals with disabilities;

''(B) enable the students at a covered institution to gain practical skills and identify work experience opportunities, including opportunities developed by the consortium in conjunction with the private sector, that benefit individuals with disabilities;

''(C) develop postsecondary school career pathways leading to gainful employment, the attainment of an associate or baccalaureate degree, or the completion of further coursework or a further degree, in a disability-related field;

''(D) offer credit-bearing, college-level coursework in a disability-related field to qualified students at a covered institution; and

''(E) ensure faculty and staff employed by the members are available to students at a covered institution for educational and career advising, and to teachers and staff at a covered institution for disability-related training.

''(6) PERMISSIBLE USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium may permit the consortium to use the grant funds to assess the feasibility of developing or adapting disabilities studies curricula, including curricula with distance learning opportunities, for use at institutions of higher education.

''(7) CONSULTATION.—The consortium shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the consortium, concerning the program of education and training carried out by the consortium.

''(8) REVIEWS.—

''(A) ADVISORY COMMITTEE.—For an institution of higher education to be eligible to receive a grant under this subsection on behalf of a consortium, the consortium shall have an advisory committee that consists of members that represent the interests of individuals with disabilities, including—

''(i) a professional in the field of vocational rehabilitation;

''(ii) an individual with a disability or a family member of such an individual; and

''(iii) a representative of each type of entity or community represented on the consortium.

''(B) QUARTERLY REVIEWS.—The advisory committee shall meet at least once during each calendar quarter to conduct a review of the program of education and training carried out by the consortium. The committee shall directly advise the governing board of the institution of higher education in the consortium about the views and recommendations of the advisory committee resulting from the review.

''(9) ACCOUNTABILITY.—Every 2 years, the Commissioner shall—

''(A) using information collected from the reviews required in paragraph (8), assess the effectiveness of the Disability Career Pathways program carried out under this subsection, including assessing how many individuals were served by each eligible consortium and how many of those individuals received postsecondary education, or entered into employment, in a disability-related field; and

''(B) prepare and submit to Congress a report containing the results of the assessments described in subparagraph (A).''.

SEC. 444. MIGRANT AND SEASONAL FARMWORKERS.

Section 304(b) of the Rehabilitation Act of 1973 (29 U.S.C. 774(b)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 445. RECREATIONAL PROGRAMS.

Section 305 of the Rehabilitation Act of 1973 (29 U.S.C. 775) is amended—

(1) in subsection (a)(1)(B), by striking ''construction of facilities for aquatic rehabilitation therapy,''; and

(2) in subsection (b), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle D—National Council on Disability

SEC. 451. AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Rehabilitation Act of 1973 (29 U.S.C. 785) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle E—Rights and Advocacy

SEC. 461. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

Section 502(j) of the Rehabilitation Act of 1973 (29 U.S.C. 792(j)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 462. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e) is amended—

(1) in subsection (c)(1)(A), by inserting ''a grant for'' after ''to provide'';

(2) in subsection (g)(2), by striking ''was paid'' and inserting ''was paid, except that program income generated from the amount paid to an eligible system shall remain available to such system until expended''; and

(3) in subsection (*l*), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle F—Employment Opportunities for Individuals With Disabilities

SEC. 471. PROJECTS WITH INDUSTRY.

Section 611(a) of the Rehabilitation Act of 1973 (29 U.S.C. 795(a)) is amended—

(1) in paragraph (1), by inserting '', locally and nationally'' before the period at the end; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''local and national'' before ''Projects With Industry''; and

(B) in subparagraph (A)—

(i) in clause (iii), by striking ''and'' after the semicolon;

(ii) in clause (iv), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(v) coordinate activities with the Job Corps center industry councils established under section 154 of the Workforce Investment Act of 1998 (29 U.S.C. 2894);''.

SEC. 472. PROJECTS WITH INDUSTRY AUTHORIZATION OF APPROPRIATIONS.

Section 612 of the Rehabilitation Act of 1973 (29 U.S.C. 795a) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 473. SERVICES FOR INDIVIDUALS WITH SIGNIFICANT DISABILITIES AUTHORIZATION OF APPROPRIATIONS.

Section 628 of the Rehabilitation Act of 1973 (29 U.S.C. 795n) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle G—Independent Living Services and Centers for Independent Living

SEC. 481. STATE PLAN.

Section 704 of the Rehabilitation Act of 1973 (42 U.S.C. 795c) is amended by adding at the end the following:

''(o) PROMOTING FULL ACCESS TO COMMUNITY LIFE.—

''(1) IN GENERAL.—The plan shall describe how the State will provide independent living services that promote full access to community life for individuals with significant disabilities.

''(2) SERVICES.—The services shall include, as appropriate—

''(A) facilitating transitions of—

''(i) youth who are individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

''(ii) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

''(B) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

''(C) promoting home ownership among individuals with significant disabilities.''.

SEC. 482. STATEWIDE INDEPENDENT LIVING COUNCIL.

Section 705(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(b)) is amended—

(1) in paragraph (2), by striking subparagraph (C) and inserting the following:

''(C) in a State in which 1 or more projects provide services under section 121, not less than 1 representative of the directors of the projects.''; and

(2) by striking paragraph (5) and inserting the following:

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.''.

SEC. 483. INDEPENDENT LIVING SERVICES AUTHORIZATION OF APPROPRIATIONS.

Section 714 of the Rehabilitation Act of 1973 (29 U.S.C. 796e–3) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 484. PROGRAM AUTHORIZATION.

Section 721 of the Rehabilitation Act of 1973 (42 U.S.C. 796f) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) ALLOTMENTS TO STATES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADDITIONAL APPROPRIATION.—The term 'additional appropriation' means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—

''(i) the amount reserved under subsection (b) for that fiscal year; and

''(ii) the appropriation for fiscal year 2003.

''(B) APPROPRIATION.—The term 'appropriation' means the amount appropriated to carry out this part.

''(C) BASE APPROPRIATION.—The term 'base appropriation' means the portion of the appropriation for a fiscal year that is equal to the lesser of—

''(i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or

''(ii) the appropriation for fiscal year 2003.

''(2) ALLOTMENTS TO STATES FROM BASE APPROPRIATION.—After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.

''(3) ALLOTMENTS TO STATES OF ADDITIONAL APPROPRIATION.—From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—

''(A) an amount that bears the same ratio to 50 percent of the additional appropriation as the population of the State bears to the population of all States; and

''(B) 1/56 of 50 percent of the additional appropriation.''; and

(2) by adding at the end the following:

''(e) CARRYOVER AUTHORITY.—Notwithstanding any other provision of law—

''(1) any funds appropriated for a fiscal year to carry out a grant program under section 722 or 723, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year; and

''(2) any amounts of program income received by recipients under a grant program under section 722 or 723 in a fiscal year, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year.''.

SEC. 485. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

Section 722(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–1(c)) is amended—

(1) by striking ''grants'' and inserting ''grants for a fiscal year''; and

(2) by striking ''by September 30, 1997'' and inserting ''for the preceding fiscal year''.

SEC. 486. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

Section 723(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–2(c)) is amended—

(1) by striking ''grants'' and inserting ''grants for a fiscal year''; and

(2) by striking ''by September 30, 1997'' and inserting ''for the preceding fiscal year''.

SEC. 487. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

Section 725(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–4(b)) is amended by adding at the end the following:

''(8) PROMOTING FULL ACCESS TO COMMUNITY LIFE.—

''(A) IN GENERAL.—The center shall provide independent living services that promote full access to community life for individuals with significant disabilities.

''(B) SERVICES.—The services shall include, as appropriate—

''(i) facilitating transitions of—

''(I) youth who are individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

''(II) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

''(ii) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

''(iii) promoting home ownership among individuals with significant disabilities.''.

SEC. 488. CENTERS FOR INDEPENDENT LIVING AUTHORIZATION OF APPROPRIATIONS.

Section 727 of the Rehabilitation Act of 1973 (29 U.S.C. 796f–6) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 489. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Chapter 2 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796j et seq.) is amended—

(1) by redesignating sections 752 and 753 as sections 753 and 754, respectively; and

(2) by inserting after section 751 the following:

''SEC. 752. TRAINING AND TECHNICAL ASSISTANCE.

''(a) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year for which the funds appropriated to carry out this chapter exceed the funds appropriated to carry out this chapter for fiscal year 2003, the Commissioner shall first reserve from such excess, to provide training and technical assistance to designated State agencies for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this chapter for the fiscal year involved.

''(b) ALLOCATION.—From the funds reserved under subsection (a), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind to provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating independent living programs for older individuals who are blind.

''(c) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of designated State agencies that receive grants under section 753 regarding training and technical assistance needs in order to determine funding priorities for grants, contracts, and other arrangements under this section.

''(d) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this section, an entity shall submit an application to the Commissioner at such time, in such manner, containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require.

''(e) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this section may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such reserved funds are separately identified in the agreement for such grant or payment and are used for the purposes of this chapter.''.

SEC. 490. PROGRAM OF GRANTS.

Section 753 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended—

(1) by striking subsection (h);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively;

(3) in subsection (b), by striking ''section 753'' and inserting ''section 754'';

(4) in subsection (c)—

(A) in paragraph (1), by striking ''section 753'' and inserting ''section 754''; and

(B) in paragraph (2)—

(i) by striking ''subsection (j)'' and inserting ''subsection (i)''; and

(ii) by striking ''subsection (i)'' and inserting ''subsection (h)'';

(5) in subsection (g), by inserting '', or contracts with,'' after ''grants to'';

(6) in subsection (h), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking ''subsection (j)(4)'' and inserting ''subsection (i)(4)''; and

(B) in paragraph (2)—

(i) in subparagraph (A)(vi), by adding ''and'' after the semicolon;

(ii) in subparagraph (B)(ii)(III), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (C); and

(7) in subsection (i), as redesignated by paragraph (2)—

(A) by striking paragraph (2) and inserting the following:

''(2) MINIMUM ALLOTMENT.—

''(A) STATES.—In the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, the amount referred to in paragraph (1)(A) for a fiscal year is the greater of—

''(i) $350,000;

''(ii) an amount equal to the amount the State, the District of Columbia, or the Commonwealth of Puerto Rico received to carry out this chapter for fiscal year 2003; or

''(iii) an amount equal to ⅓ of 1 percent of the amount appropriated under section 754, and not reserved under section 752, for the fiscal year and available for allotments under subsection (a).

''(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the amount referred to in paragraph (1)(A) for a fiscal year is $60,000.'';

(B) in paragraph (3)(A), by striking ''section 753'' and inserting ''section 754, and not reserved under section 752,''; and

(C) in paragraph (4)(B)(i), by striking ''subsection (i)'' and inserting ''subsection (h)''.

SEC. 491. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND AUTHORIZATION OF APPROPRIATIONS.

Section 754 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle H—Miscellaneous

SEC. 495. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of the Helen Keller National Center Act (29 U.S.C. 1907(h)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

TITLE V—TRANSITION AND EFFECTIVE DATE

SEC. 501. TRANSITION PROVISIONS.

The Secretary of Labor shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles I and III of this Act. The Secretary of Education shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles II and IV of this Act.

SEC. 502. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mr. KENNEDY. Mr. President, It is a privilege to join my colleagues in introducing this bipartisan bill to reauthorize the Workforce Investment Act and increase the opportunities for workers to obtain the services and training they need to hold good jobs in the years ahead.

This bill strengthens the current One-Stop system we established in 1998, so that many more people can be served. The bill creates stronger partnerships with businesses to recruit new workers, collaborate in training current workers, improve career ladder opportunities, and work with local leaders to meet the changing needs of their community.

The One-Stop system is needed more than ever now, to serve hard-working Americans who have lost their jobs

through no fault of their own as we struggle to rebuild our economy and adjust to the new century and the globalization forces that are transforming our society and our workforce. Current employees, especially the growing number of manufacturing workers, need effective training to be eligible for the available jobs in their area.

We have also worked to remove the sequencing of services for persons entering the workforce who face barriers to employment. Providers can move adults directly to skills training, or create training programs that include literacy and language skills as well, so that job training is not delayed.

The bill also encourages local providers to continue the training programs until employees can be self-sufficient. For those who start on the minimum wage, the support system should be there to help them qualify for the better-paying jobs that will enable them to support their families. Some men and women may obtain their first job through the system, and continue to participate as they move up their career ladders.

The bill will also help young people. Last summer, the youth unemployment rate rose to 17 percent and we were all acutely aware of the special challenges that young workers face in this economy. The youth program will continue to work with both in-school and out-of-school young men and women to help them obtain the education and the real job experience they need to be competitive.

The bill pays particular attention to the needs of people with disabilities. Their access to the program is essential if the system is to be truly universal. It's unacceptable today that hundreds of thousands of people with disabilities are unable to find employment. Workforce training programs must coordinate with vocational rehabilitation programs to provide many more opportunities for those with physical and mental challenges.

For over thirty years, since the Vocational Rehabilitation Act was first enacted in 1973, state vocational rehabilitation programs have brought new hope to individuals with disabilities throughout the country, so that they can reach their full potential and actively participate in their communities.

Through vocational rehabilitation, individuals with disabilities can obtain the training, counseling, support and job opportunities they need in order to have independent, productive, and fulfilling lives. For millions of these Americans, vocational rehabilitation is the difference between dependence and independence, between lost potential and a productive career.

In 1998, vocational rehabilitation became part of the state-wide workforce system in each state. This reauthorization will strengthen that partnership, so that many more working-age individuals with disabilities, even those with the most significant challenges, have realistic opportunities to obtain the services and support they need to reach their employment goals.

The legislation also strengthens other aspects of independent living, so that students and adults with disabilities can receive the services and support they need for community-based living.

Our goal in this reauthorization is to see that the talents and strengths of all individuals with disabilities are recognized, enhanced, and fairly rewarded in communities and workplaces across the nation.

The bill also contains the Adult Literacy Act, which funds critical programs for states to assist adults in obtaining the basic reading, writing, numeracy and English language skills that they need to be full participants in the workplace and in society.

We all know that education is the great equalizer. Improving basic literacy is a key component of job training. Large numbers of persons are on waiting lists across the country to be served under this program—25,000 people in Massachusetts alone—and we need to do more to serve adults who recognize their need to improve these skills in order to improve their lives.

I commend my colleagues and the many organizations representing governors, mayors, county officials, youth, women, and low-income persons who were so actively involved in preparing this legislation. We have tried to listen carefully to the many leaders who have practical experience in implementing these laws.

I look forward to continuing this bipartisan effort and to the early enactment of this needed legislation.

By Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

Mr. SMITH. Mr. President, water and energy are precious resources that we must manage as efficiently as possible. That is why I am joining with my colleagues Senator LINCOLN and Finance Chairman GRASSLEY to introduce the ''Resource Efficient Appliance Incentives Act of 2005.'' This bill would provide for manufacturers' tax credits of varying levels for certain energy and water efficient home appliances.

Under this bill, for the first time, water efficiency is included in the eligibility criteria for the tax credits for clothes washers. This bill provides graduated credits to appliance manufacturers. The more efficient the dishwasher, clothes washer or refrigerator, the higher the credit.

To spur increased production, the bill provides that these tax credits would apply only to production that exceeds historical production levels, and requires a three-year rolling average to calculated this production baseline. The bill only applies to appliances manufactured in the United States. This will encourage innovation and investment in domestic manufacturing facilities, which employ about 95,000 Americans.

Energy savings from this bill would be significant. Super-energy efficient and water conserving clothes washers would have to use at least 65 percent less energy than the 2004 federal standard to qualify for the higher credit. Refrigerators must exceed the 2001 energy conservation standards for comparably sized models by at least 15 percent to receive a credit under this bill.

This bill will not only save energy, and reduce the consumers' energy bills over the life of the appliance. It is estimated that, over twenty years, the credit would reduce the amount of water used to wash clothes by approximately a trillion gallons, the amount used in two years by a city the size of Phoenix, Arizona.

In several parts of the country, development is constrained by the lack of good quality water and water infrastructure. Having dealt with the water crisis in the Klamath Basin in 2001, when 1,200 farmers and ranchers had their irrigation water cut off, I can tell you firsthand that the conflicts between competing human and environmental needs are real and are growing.

As Benjamin Franklin observed, ''When the well is dry, we know the worth of water.'' In many parts of the arid west, the well is running dry on a regular basis. The 10-year drought in the Colorado River Basin, which has seen relief this year, had produced the lowest flows on record last year, straining an important resource for millions of people. The Columbia River Basin has also experienced below average flows in recent years.

The daily per capita water use around the world varies significantly. The U.N. Population Fund cites that, in the United States, we use an estimated 152 gallons per day per person, while in the United Kingdom they use 88 gallons. Africans use 12 gallons a day.

According to the Rocky Mountain Institute, 47 percent of all water supplied to communities in the United States by public and private utilities is for residential water use. Of that, clothes washers account for approximately 22 percent of residential use, while dishwashers account for about 3 percent.

I firmly believe that we can use technology to improve our environmental stewardship. Water efficiency can extend our finite water supplies, and also reduce the amount of wastewater that communities must treat.

I would urge my colleagues to join me in cosponsoring this important bill to provide incentives for water and energy efficient residential appliances. I ask unanimous consent that the text of legislation be printed in the RECORD.

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

S. 1022

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 ''Resource Efficient Appliance Incentives Act of 2005.''.

SEC. 2. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45J. ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) GENERAL RULE.—

''(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

''(2) CREDIT AMOUNTS.—The credit amount determined for any type of qualified energy efficient appliance is—

''(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

''(B) the eligible production for such type.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a)—

''(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

''(i) is manufactured in calendar year 2006 or 2007, and

''(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

''(B) CLOTHES WASHERS.—The applicable amount is—

''(i) $50, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2005, and

''(II) has an MEF of at least 1.42,

''(ii) $100, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2005, 2006, or 2007, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007, and

''(iii) the energy and water savings amount, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2008, 2009, or 2010, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2010.

''(C) REFRIGERATORS.—

''(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

''(I) is manufactured in calendar year 2005 or 2006, and

''(II) consumes at least 15 percent less kilowatt hours per year than the 2001 energy conservation standard.

''(ii) 20 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 20 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

''(I) $125 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

''(II) $100 for a refrigerator which is manufactured in calendar year 2008.

''(iii) 25 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

''(I) $175 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

''(II) $150 for a refrigerator which is manufactured in calendar year 2008, 2009, or 2010.

''(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The energy savings amount is the lesser of—

''(i) the product of—

''(I) $3, and

''(II) 100 multiplied by the energy savings percentage, or

''(ii) $100.

''(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

''(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

''(ii) the EF required by the Energy Star program for dishwashers in 2007.

''(3) ENERGY AND WATER SAVINGS AMOUNT.—For purposes of paragraph (1)(B)(iii)—

''(A) IN GENERAL.—The energy and water savings amount is the lesser of—

''(i) the product of—

''(I) $10, and

''(II) 100 multiplied by the energy and water savings percentage, or

''(ii) $200.

''(B) ENERGY AND WATER SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy and water savings percentage is the average of the MEF savings percentage and the WF savings percentage.

''(C) MEF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the MEF savings percentage is the ratio of—

''(i) the MEF required by the Energy Star program for clothes washers in 2010 minus the MEF required by the Energy Star program for clothes washers in 2007, to

''(ii) the MEF required by the Energy Star program for clothes washers in 2010.

''(D) WF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the WF savings percentage is the ratio of—

''(i) the WF required by the Energy Star program for clothes washers in 2010 minus the WF required by the Energy Star program for clothes washers in 2007, to

''(ii) the WF required by the Energy Star program for clothes washers in 2010.

''(c) ELIGIBLE PRODUCTION.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

''(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

''(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

''(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

''(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

''(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

''(3) SPECIAL RULE FOR 2005 PRODUCTION.—For purposes of determining eligible production for calendar year 2005—

''(A) only production after the date of enactment of this section shall be taken into account under paragraphs (1)(A) and (2)(A), and

''(B) the amount taken into account under paragraphs (1)(B) and (2)(B) shall be an amount which bears the same ratio to the amount which would (but for this paragraph) be taken into account under such paragraph as—

''(i) the number of days in calendar year 2005 after the date of enactment of this section, bears to

''(ii) 365.

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1)(A),

''(2) clothes washers described in subsection (b)(1)(B)(i),

''(3) clothes washers described in subsection (b)(1)(B)(ii),

''(4) clothes washers described in subsection (b)(1)(B)(iii),

''(5) refrigerators described in subsection (b)(1)(C)(i),

''(6) refrigerators described in subsection (b)(1)(C)(ii)(I),

''(7) refrigerators described in subsection (b)(1)(C)(ii)(II),

''(8) refrigerators described in subsection (b)(1)(C)(iii)(I), and

''(9) refrigerators described in subsection (b)(1)(C)(iii)(II).

''(e) LIMITATIONS.—

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

''(2) AMOUNT ALLOWED FOR CERTAIN APPLIANCES.—

''(A) IN GENERAL.—In the case of appliances described in subparagraph (C), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

''(B) ELECTION TO INCREASE ALLOWABLE CREDIT.—In the case of any taxpayer who makes an election under this subparagraph—

''(i) subparagraph (A) shall be applied by substituting '$25,000,000' for '$20,000,000', and

''(ii) the aggregate amount of the credit allowed under subsection (a) with respect to such taxpayer for any taxable year for appliances described in subparagraph (C) and the additional appliances described in subparagraph (D) shall not exceed $50,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

''(C) APPLIANCES DESCRIBED.—The appliances described in this subparagraph are—

''(i) clothes washers described in subsection (b)(1)(B)(i), and

''(ii) refrigerators described in subsection (b)(1)(C)(i).

''(D) ADDITIONAL APPLIANCES.—The additional appliances described in this subparagraph are—

''(i) refrigerators described in subsection (b)(1)(C)(ii)(I), and

''(ii) refrigerators described in subsection (b)(1)(C)(ii)(II).

''(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection

(a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(f) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1)(A),

''(B) any clothes washer described in subsection (b)(1)(B), and

''(C) any refrigerator described in subsection (b)(1)(C).

''(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

''(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

''(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(5) MEF.—The term 'MEF' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

''(6) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

''(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

''(8) PRODUCED.—The term 'produced' includes manufactured.

''(9) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

''(g) SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(2) CONTROLLED GROUP.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.''.

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the energy efficient appliance credit determined under section 45J(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45J. Energy efficient appliance credit''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. 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. 1023

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 ''Digital Opportunity Investment Trust Act''.

SEC. 2. ORGANIZATION.

(a) IN GENERAL.—There is established a nonprofit corporation to be known as the ''Digital Opportunity Investment Trust'' (referred to in this Act as the ''Trust'') which shall not be an agency or establishment of the United States Government. The Trust shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(b) FUNDING.—

(1) IN GENERAL.—There is established in the Treasury a separate fund to be known as the ''Digital Opportunity Investment Trust Fund'' (referred to in this Act as the ''Trust Fund''). The Trust Fund shall contain such amounts as are transferred to the Trust Fund under paragraph (2) and any interest earned on the investment of amounts in the Trust Fund under section 4.

(2) TRANSFER OF FUNDS.—The Secretary of the Treasury shall in each fiscal quarter through the last quarter of fiscal year 2028, transfer from the General Fund of the Treasury to the Trust Fund, an amount equal to 30 percent of the proceeds received by the Federal Government during the preceding fiscal quarter from any use (including any auction, sale, fee derived from, or other revenue generated from) of the electromagnetic spectrum conducted under section 309 (or any other section) of the Communications Act of 1934 (47 U.S.C. 309 (j)) (or any other provision of Federal law) after September 30, 2007.

(c) BOARD OF DIRECTORS; FUNCTIONS, AND DUTIES.—

(1) BOARD.—

(A) IN GENERAL.—A board of directors of the Trust (referred to in this Act as the ''Board'') shall be established to oversee the administration of the Trust. Such Board shall consist of 9 members to be appointed by the President, by and with the advice and consent of the Senate, who—

(i) reflect representation from the public and private sectors;

(ii) are not regular full-time employees of the Federal Government;

(iii) are eminent in such fields as telecommunications including public television, information technology, labor and workforce development, education, cultural and civic affairs, or the arts and humanities;

(iv) shall provide, as nearly as practicable, a broad representation of various regions of the United States, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Trust; and

(v) shall be responsible for establishing the priorities and funding obligations of the Trust.

(B) INITIAL MEMBERS.—The initial members of the Board shall serve as incorporators of the Trust and shall take whatever actions are necessary to establish the Trust under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(C) RECOMMENDATIONS.—The Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall jointly submit to the President recommendations of individuals, selected from nominations submitted to Congress from associations representing the fields of science and learning relative to the work of the Board, to serve as members of the Board.

(D) TERMS OF APPOINTMENT.—

(i) DATE.—Members of the Board shall be appointed not later than 90 days after the date of enactment of this Act.

(ii) TERMS.—

(I) IN GENERAL.—Except as provided in subclause (II), each member of the Board shall be appointed for a 6-year term with terms set to expire in non-Federal election years.

(II) STAGGERED TERMS.—With respect to the initial members of the Board—

(aa) 3 members shall serve for a term of 6 years;

(bb) 3 members shall serve for a term of 4 years; and

(cc) 3 members shall serve for a term of 2 years.

(iii) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(E) CHAIR AND VICE-CHAIR.—

(i) SELECTION.—The Board shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board and an individual to serve for a 2-year term as vice-Chair of the Board.

(ii) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(F) MEETINGS.—

(i) FIRST MEETING.—Not later than 30 days after the date on which all of the members of the Board have been confirmed by the Senate, the Chair of the Board shall call the first meeting of the Board.

(ii) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(G) BOARD PERSONNEL MATTERS.—

(i) COMPENSATION.—Members of the Board shall not receive compensation, allowances, or benefits by reason of the members' service on the Board.

(ii) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(H) SOLICITATION OF ADVICE.—The Board from time to time may solicit advice from—

(i) the Secretary of Health and Human Services;

(ii) the Secretary of Commerce;

(iii) the Secretary of Education;

(iv) the Secretary of Agriculture;

(v) the Secretary of Defense;

(vi) the Secretary of Energy;

(vii) the Secretary of Homeland Security;

(viii) the Secretary of the Interior;

(ix) the Secretary of Labor;

(x) the Administrator of the National Aeronautics and Space Administration;

(xi) the Director of the National Security Agency;

(xii) the Director of the National Science Foundation;

(xiii) the Director of the Office of Science and Technology Policy;

(xiv) the Director of the National Endowment for the Arts;

(xv) the Director of the National Endowment for the Humanities;

(xvi) the Director of the Institute of Museum and Library Services;

(xvii) the Librarian of Congress; and

(xviii) the President and Chief Executive Officer of the Corporation for Public Broadcasting.

(2) DIRECTOR.—A majority of the members of the Board shall select a Director of the Trust who shall serve at the discretion of the Board and shall be responsible for instituting procedures to carry out the policies and priorities established by the Board, and for hiring all personnel of the Trust. The rate of compensation of the Director and personnel shall be fixed by the Board.

(d) TRUST FUND USES.—

(1) USES OF FUNDS.—To achieve the objectives of this Act, the Director of the Trust, after consultation with the Board, may use Trust funds—

(A) to support the digitization of collections and other significant holdings of the nation's universities, museums, libraries, public television stations, and other cultural institutions;

(B) to support basic and applied research, including demonstrations of innovative learning and assessment systems as well as the components and tools needed to create them;

(C) to use the research results developed under subparagraph (B) to create prototype applications designed to meet learning objectives in a variety of subject areas and designed for learners with many different educational needs, including—

(i) strengthening instruction in reading, science, mathematics, history, and the arts in elementary and secondary schools, community colleges, and other colleges and universities;

(ii) providing the training needed for people now in the workplace to advance in a constantly changing work environment; and

(iii) developing new applications for lifelong learning in non-traditional learning environments such as libraries, museums, senior and community centers, and public television and radio;

(D) to conduct assessments of legal, regulatory, and other issues that must be resolved to ensure rapid development and use of advanced learning technologies; and

(E) to coordinate and disseminate information about initiatives throughout the Federal Government that focus on uses of technology in education and learning.

(2) CONTRACTS AND GRANTS.—

(A) IN GENERAL.—In order to carry out the activities described in paragraph (1), the Director of the Trust, with the agreement of a majority of the members of the Board, may award contracts and grants to nonprofit public institutions (with or without private partners) and for-profit organizations and individuals.

(B) PUBLIC DOMAIN.—

(i) IN GENERAL.—The research and development properties and materials associated with a project in which a majority of the funding used to carry out the project is from a grant or contract under this Act shall be freely and nonexclusively available to the general public.

(ii) EXEMPTION.—The Director of the Trust may exempt specific projects from the requirement of clause (i) if the Director of the Trust and a majority of the members of the Board determine that the general public will benefit significantly in the long run due to the project not being freely and nonexclusively available to the general public.

(C) EVALUATION OF PROPOSALS.—To the extent practicable, proposals for such contracts or grants shall be evaluated on the basis of comparative merit by panels of experts who represent diverse interests and perspectives, and who are appointed by the Director of the Trust from recommendations from the fields served and the Board of Directors.

(3) COOPERATION.—The Director of the Trust, after consultation with the Board, may cooperate with business, industry, philanthropy, noncommercial education broadcast, television and radio licensees and permittees, and local and national public service institutions, including in activities that seek to enhance the work of such public service institutions by seeking new ways to put telecommunications and information technologies to work in their areas of interest.

SEC. 3. ACCOUNTABILITY AND REPORTING.

(a) REPORT.—

(1) IN GENERAL.—Not later than April 30 of each year, the Director of the Trust shall prepare a report for the preceding fiscal year that contains the information described in paragraph (2).

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a comprehensive and detailed report of the Trust's operations, activities, financial condition, and accomplishments, and such recommendations as the Director of the Trust determines appropriate; and

(B) a comprehensive and detailed inventory of funds distributed from the Trust Fund during the fiscal year for which the report is being prepared.

(3) STATEMENT OF THE BOARD.—Each report under paragraph (1) shall include a statement from the Board containing—

(A) a clear description of the plans and priorities of the Board for the subsequent 5-year period for expenditures from the Trust Fund; and

(B) an estimate of the funds that will be available for such expenditures from the Trust Fund.

(4) SUBMISSION TO THE PRESIDENT AND CONGRESS.—A report under this subsection shall be submitted to the President and the appropriate committees of Congress.

(b) TESTIMONY.—The Chair of the Board, other members of the Board, and the Director and principal officers of the Trust shall testify before the appropriate committees of Congress, upon request of such committees, with respect to—

(1) a report prepared under subsection (a)(1); and

(2) any other matter that such committees may determine appropriate.

SEC. 4. INVESTMENT OF TRUST FUNDS.

(a) IN GENERAL.—The Secretary of the Treasury, after consultation with the Board, shall invest the funds of the Trust Fund in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(b) EXPENDITURES.—

(1) IN GENERAL.—The Director of the Trust shall not undertake grant or contract activities under this Act until the Trust has received the interest or other proceeds from the investment of the Trust Funds for not less than 1 year's duration. Thereafter, upon Board approval of the annual budget of the Trust, the Director of the Trust may commence such grant or contract activities at the start of each fiscal year.

(2) OBLIGATION OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in awarding grants or contracts or making other expenditures under this Act, the Director of the Trust shall not obligate funds from the Trust that exceed the proceeds received from the investment of the funds in the Trust Fund during the preceding fiscal year.

(B) CARRY OVER.—Funds from the Trust Fund that are available for obligation for a fiscal year that are not obligated for such fiscal year shall remain available for obligation for the succeeding fiscal year.

SEC. 5. SPECIAL ACCOUNT FOR DISTRIBUTION TO PUBLIC TELEVISION STATIONS.

(a) RESERVATION.—An amount equivalent to 21 percent of the interest derived from the investment proceeds referred to in section 2(b)(2) shall be reserved in a special account within the Trust Fund for distribution on a regular basis to those noncommercial educational television broadcast stations (as defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)) that are qualified to receive grants from the Corporation for Public Broadcasting pursuant to section 396(k)(6)(B) of such Act (47 U.S.C. 396(k)(6)(B)) and to the Public Broadcasting Service in partnership with such stations.

(b) RESPONSIBILITY FOR DISTRIBUTION.—The Director of the Trust shall—

(1) through a special contract, designate the Corporation for Public Broadcasting as the sole agent responsible for the distribution of funds under this section; and

(2) transfer the funds referred to in subsection (a) to the Corporation for Public Broadcasting on a regular basis.

(c) GRANTS.—In making the distribution referred to in subsection (a), the Corporation for Public Broadcasting shall utilize a competitive grant application process that is governed by criteria that ensures that funds are directed to the creation of locally delivered digital education and learning services and ensures that a diversity of licensee types and geographic service areas are adequately served. The Corporation for Public Broadcasting shall develop such criteria in consultation with public television licensees, permitees, and representatives designated by their national organizations.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, today I rise to introduce legislation, The Stewardship for our Coasts and Opportunities for Reliable Energy Act—SCORE Act—which will ensure that offshore energy development on the Outer Continental Shelf—OCS—continues to serve our nation's needs, create opportunities for new development on the OCS as well as the use of alternative resources such as renewable energy.

Since the energy frontier of the OCS was officially opened to significant oil and gas exploration in 1953, no single region has contributed nearly as much to our Nation's energy production. Today, the OCS represents more than

25 percent of our Nation's natural gas production and more than 30 percent of our domestic oil production and it is estimated that 60 percent of the oil and natural gas still to be discovered in U.S. will come from the OCS.

An average of more than $5 billion in revenues from oil and gas production are returned to the federal treasury each year from the OCS—$145 billion since production began. That is the second biggest contributor of revenue to the Federal Treasury after income taxes.

But just as the Western frontier once represented a great unknown to our Nation's policymakers, the impact and reality of the OCS seems lost in a time warp. While much of the OCS has been off limits for decades, technological advancements have developed in that time to better target the resources and dramatically reduce the environmental footprint. These innovations will continue to allow crucial exploration and production to take place but in an environmentally responsible way. For example, we have produced three times as many resources on the OCS as we thought existed 30 years ago.

In fact, the Minerals Management Service—MMS—estimates that from 1985 to 2001, OCS offshore facilities and pipelines accounted for only 2 percent of the oil released into U.S. waters. In fact, 97 percent of OCS spills are one barrel or less in volume. Serving America's energy needs and being good stewards of the environment need not be mutually exclusive goals.

However, despite our technological prowess and responsible exploration, we have yet to fully realize the potential the OCS has to offer. Today only 2.5 percent of the 1.76 billion acres that make up the OCS are leased. Most of the Pacific Coast and the eastern Gulf of Mexico are off limits as is the entire Atlantic seaboard.

Almost all of the area on the OCS that is currently leased is in the Central and Western Gulf of Mexico, off the coasts of Louisiana and Texas, where 98 percent of total OCS production occurs. However, we cannot continue to take without giving something back in return. A significant portion of OCS revenues must be returned to the coastal producing states off whose coasts they are generated.

The Mineral Leasing Act of 1920 shares automatically with states 50 percent of revenues from mineral production on Federal lands within that State's boundaries. These funds are distributed to States automatically, outside the budget process and not subject to appropriations. In fiscal year 2004, the State of Wyoming received $564 million as a result of this law and the State of New Mexico received $365 million. However, there is no similar provision in law for coastal producing states to share federal oil and gas revenues generated on the OCS.

For both onshore and offshore production, the justification for sharing with the state is the same: the state serves as the platform which enables the Federal Government to support a basic element of our daily lives—turning on our lights, heating our homes and running our commuter trains. In light of the OCS' vital contribution to our Nation's energy needs, economy and national security, it seems only fair and logical that we should return a portion of these revenues to the few states that are providing this crucial supply of energy.

The SCORE Act would automatically distribute a significant portion of OCS revenues to the five coastal producing States without moratoria off their coasts Alaska, Texas, Louisiana, Mississippi and Alabama based on each state's production, with 35 percent of each State's allocation directed to coastal counties and parishes.

When Hurricane Ivan struck back in September of last year, it should have been a wake up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt four months later. One can only imagine what the impact would have been had Ivan cut a more Western path in the Gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply?

Returning a portion of OCS revenues to coastal producing states is crucial to restoring and preserving the vital wetlands and the billions in energy investments they protect. It will also help further strengthen our national economic security by maintaining our current energy supply and continuing to provide the platform for us to go further in our quest to develop domestic resources while attempting to reduce our reliance on foreign energy supplies.

In addition to ensuring that the vital offshore energy development that has served our Nation's needs for 50 years can continue, the SCORE Act also seeks to establish opportunities for new development on the OCS.

The legislation would direct the Secretary of Interior to establish seaward lateral boundaries for all coastal States by regulation. Coastal States with a moratoria currently in place off their coasts would have the option, through their Governor with the consent of the State legislature, to explore the possibility of offshore energy development off their coasts.

These coastal States could petition the Secretary of Interior for a resource assessment of energy sources located within their seaward lateral boundaries. With these assessments in hand, the State legislature of the State could request that any or all of the area within their boundaries, but only beyond 20 miles from their coastline, be made available for leasing. If the Secretary permits leasing within the requesting State's boundary, the State qualifies to receive a portion of revenues generated from any production that takes place within their seaward lateral boundary.

Finally, SCORE would provide the opportunity for innovative, alternative uses of the OCS, including renewable energy projects such as wind, wave and solar. A portion of revenues from this production would be shared with the State off whose coastline the production took place.

Next week the Senate Energy and Natural Resources Committee, under the leadership of Chairman DOMENICI and Senator BINGAMAN, will begin marking up comprehensive energy legislation. I am hopeful that some aspects of the proposal I have laid out today will be included as part of the bill reported out of committee. I look forward to working with my colleagues on the Committee over the next few weeks to further discuss these concepts and make them a reality.

Quite simply, SCORE allows our country to continue to utilize the tremendous and vital natural resources of the OCS while also providing us the opportunity to further explore the unlimited potential of this vast frontier. It is time to base our decisions on modern successes rather than out-dated worries.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes, to the Committee on Armed Services.

Mrs. CLINTON. Mr. President, today I am introducing the Military Personnel Financial Services Education Act of 2005. Senator COLLINS, my colleague on the Armed Services Committee, has agreed to cosponsor this legislation. This bill will directly address a problem that has plagued military servicemen and women for years: a lack of general knowledge about the insurance and other financial services available to them. This deficiency in information has led to many of our brave men and women in uniform being taken advantage of by unscrupulous companies that have targeted and preyed on junior members of our military.

Last year, a series of articles in the New York Times uncovered a serious problem: there were a number of companies using misleading sales practices to sell expensive life insurance policies to Iraq-bound recruits and other uniformed personnel. These articles led to investigations by the Department of Justice, reports by the GAO, and legislation by Congress. Earlier this year, I joined with Senator ENZI to introduce the Military Personnel Financial Services Protection Act. That legislation goes a long way toward tracking unscrupulous companies, and eliminating investment schemes which take advantage of our men and women in uniform.

But we also need to address our more fundamental responsibilities to our

servicemen and women, and their families, to ensure that we provide them with adequate financial education so that they can make informed decisions about their future.

This bill will require the Department of Defense to provide consumer education for members of the armed forces and their spouses. It instructs the Secretary of Defense to carry out a comprehensive education program for military members regarding public and private financial services, including life insurance and the marketing practices of these services, available to them. This education will be institutionalized in the initial and recurring training for members of the military.

This bill also requires that counseling services on these issues be made available, upon request, to members and their spouses. I think it is very important to include the spouses in this program, because we all know that investment decisions should be made as a family. Too many times, a military spouse has to make these decisions alone, while their husband or wife is deployed. This bill will require a permanent, trained counselor at military bases with at least 750 assigned personnel, and a part-time, equally capable counselor available at smaller bases with less than 750. By our calculations, this means about 230 installations will have full-time counselors.

Finally, regarding life insurance, this bill will take existing legislation and DoD policy one more step in the military member's favor. During counseling of members or spouses regarding life insurance, counselors must include information on the availability of Servicemembers' Group Life Insurance—SGLI—as well as other available products. It requires that any enlisted member in the grades of E1–E4 must provide confirmation that they have received counseling from their approved counselor or commander before entering into any new contract with a private sector life insurer. Our legislation will keep the current rule of a 7 day waiting period for allotments to take effect to facilitate time for counseling. Existing policies will not be impacted by our legislation.

I am pleased to be working on this issue with Senator COLLINS, my colleague on the Armed Services Committee, who has taken such a strong interest in ensuring proper financial education for our servicemembers.

In closing, I want to reiterate the importance of this bill to military families. If implemented, this legislation will ensure our military families are fully equipped to make informed decisions that will best meet their financial and insurance needs. In my view, this is a provision long overdue. Thank you.

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. 1028

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Personnel Financial Services Education Act of 2005''.

SEC. 2. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 992. Consumer education: financial services

''(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

''(A) financial services that are available under law to members;

''(B) financial services that are routinely offered by private sector sources to members;

''(C) practices relating to the marketing of private sector financial services to members;

''(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

''(E) such other financial practices as the Secretary considers appropriate.

''(2) Training under this subsection shall be provided to members as—

''(A) a component of the members' initial entry training;

''(B) a component of each level of the members' professional development training that is required for promotion; and

''(C) a component of periodically recurring required training that is provided for the members at military installations.

''(3) The training provided at a military installation under paragraph (2)(C) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

''(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall provide counseling on financial services to each member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall, upon request, provide counseling on financial services to the spouse of any member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall provide counseling on financial services under this subsection as follows:

''(A) In the case of members, and the spouses of members, assigned to a military installation to which at least 750 members of the armed forces are assigned, through a full-time financial services counselor at such installation.

''(B) In the case of members, and the spouses of members, assigned to a military installation other than an installation described in subparagraph (A), through such mechanisms as the Secretary considers appropriate, including through the provision of counseling by a member of the armed forces in grade E–7 or above, or a civilian, at such installation who provides such counseling as a part of the other duties performed by such member or civilian, as the case may be, at such installation.

''(3) Each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

''(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), is free from conflicts of interest relevant to the performance of duty under this section and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

''(5) The Secretary concerned may authorize financial services counseling to be provided to members of a unit of the armed forces by unit personnel under the guidance and with the assistance of a financial services counselor under paragraph (2)(A) or an individual providing counseling on financial services under paragraph (2)(B), as applicable.

''(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A), or an individual providing counseling on financial services under subsection (b)(2)(B), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

''(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, or by a financial services counselor referred to in subsection (b)(2)(A) or an individual providing counseling on financial services under subsection (b)(2)(B), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

''(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until 7 days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

''(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

''(D) In this paragraph, the term 'covered member of the armed forces' means a member of the armed forces in grades E–1 through E–4.

''(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

''(1) Life insurance, casualty insurance, and other insurance.

''(2) Investments in securities or financial instruments.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''992. Consumer education: financial services.''.

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Subsection (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

Ms. COLLINS. Mr. President, I am pleased to join with Senator CLINTON on legislation that will address the persistent problems that we have experienced with the sale of inappropriate life insurance and investment products to our servicemen and women. Although these issues were newly publicized last year in a series of articles in the New York Times, these problems actually go back for decades according to a 2002 Defense Department report.

According to that report, deceptive practices have been employed to sell unnecessary and inappropriate financial products to our military for more than thirty years. Furthermore, these sales have been in violation of DoD's policies aimed at regulating the sale of commercial products on military bases.

One of the report's most alarming findings is that these practices have a ''clear and present'' effect on morale, discipline and unit integrity. It states:

> Service members who have been coerced or deceived into buying insurance on a military installation blame not only the sales agents. The victims blame their military superiors for placing them in a position to be misled. The trust and respect that military leaders seek to instill in their subordinates are clearly reduced among those who have bought insurance that is of little or no value to them. This adversely affects the unit integrity.

The author of this study, an Army General and lawyer, spoke to numerous victims of these deceptive sales practices. He stated in his report that these soldiers told him that they had less trust in their military superiors after these incidents. They also expressed a reduced interest in reenlisting.

With so many of our troops in harm's way, it is time for Congress to take decisive action on this matter. Although DoD has issued another set of draft regulations, it is barred by statute from implementing these reforms until this fall. Moreover, I am not convinced that merely tightening the regulation of such sales on base will have the desired outcome of significantly reducing the sale of inappropriate insurance products.

The Clinton-Collins legislation would: establish a requirement that DoD provide real financial education for service members and their spouses; provide for financial counselors at military bases; and require that junior enlisted personnel receive information on their federally provided life insurance before allotting part of their pay toward the purchase of private life insurance products.

These provisions reflect the problems and deficiencies identified by DoD's own report. Specifically, the report concluded that DoD's current personal financial education programs were inadequate, noting particularly that the education provided enlisted personnel was ''substantially less than that provided to junior officers.'' It is our belief that providing military personnel with a sound financial education and access to information is the best method of providing them and their families with the protection that they deserve.

While that report went much further in its recommendations, even recommending that such sales be barred, our legislation provides for more moderate measures in the hope that we can make real progress on this matter without resorting to extreme measures that would unfairly punish the countless ethical insurance agents who responsibly serve the military life insurance market. Instead, our legislation would give our troops the tools to protect themselves against those who engage in these abusive and deceptive sales practices.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce two bills to expand access to college. I am pleased to be joined in this effort by Senators COLLINS, KENNEDY, and MURRAY.

We are slated to reauthorize the Higher Education Act this Congress, after being unable to do so in the 108th Congress. Over the course of this time, the discussions on higher education have not focused on proposals that would help the neediest students attend college. This is troubling, particularly as more and more students are being priced out of college, which shortchanges their future and that of our Nation.

An individual's climb up the economic ladder is directly related to the amount of education he or she receives. Given the strong correlation among educational attainment, employment, and wages, the cost of not going to college is just too high.

And yet, too many college students are underprepared, underfinanced, and overworked. Those who make it through are saddled by huge loans. But as reports such as Empty Promises by the Advisory Committee on Student Financial Assistance have shown, many more cannot afford the cost of college at all.

Even though there have been gains due to the Higher Education Act, the current approach to student aid is not working to close the gap in college attendance between our lowest and highest income students or the gap between the aid low-income students receive and the actual cost of attendance. Indeed, about seven times as many students from high-income families graduate from college by age 24 as students from low-income families. Low-income, college-qualified high school graduates have an annual ''unmet need'' of $4,000 and rising in college expenses.

A decline in real dollars spent on grants and sharp increases in the cost of college have been key causal factors of this unfortunate situation. Indeed, there has been a steep decline in the purchasing power of the Pell Grant, which was established by my predecessor, Senator Claiborne Pell, to ensure higher education was not an ''unachievable dream.'' According to the State PIRGs' Higher Education Project, the maximum Pell Grant covered 84 percent of average four-year public tuition costs in 1976. Today, the maximum Pell Grant of $4,050 covers only about 39 percent.

Over the last 10 years, tuition and fees at public and private 4-year colleges rose 51 percent and 36 percent, respectively, (after adjusting for inflation), which is a more rapid growth rate than consumer prices. Students have felt the bite as states have drastically cut funding for public colleges.

In 2008, the largest number of students in our history will graduate from high school. Another demographic reality is that our nation will need to ensure a steady stream of replacement workers as college-educated baby boomers begin to retire in increasing numbers.

This crisis calls out for action. An educated citizenry and a world class workforce should be a national imperative. Our nation cannot afford to lose out on the countless returns from a robust education investment.

Today we introduce two bills to expand college access.

The first bill, the ACCESS—Accessing College through Comprehensive Early Outreach and State Partnerships—Act, focuses on a program I have long worked with Senator COLLINS and the other cosponsors to save, reinvigorate, and fund the Leveraging Educational Assistance Partnership or LEAP program. LEAP is the only program in which the federal and state governments are partners in extending higher education opportunities to financially needy students.

The ACCESS Act forges a new Federal incentive for States to do even more to help low-income students by creating within LEAP an access and persistence partnership program. States will be rewarded—via higher

levels of federal matching dollars—for creating vibrant partnerships with colleges, early intervention and mentoring programs, foundations, and businesses and providing cohesion and coordination among these entities. Access and persistence partnerships have three main goals: to provide low-income students with a grant that fills the gap of their unmet need; to increase participation of low-income students in early information, intervention, mentoring, and outreach programs; and to provide early notification to low-income students of their eligibility for financial aid. Research has shown that successful college access programs are those that offer early intervention and mentoring services coupled with early information about estimated financial aid awards and adequate grant funding to make the dream of higher education a reality. Students participating in such programs are more financially and academically prepared, and thus more likely to enroll in college and persist to degree completion.

The second bill we introduce today, the FAFSA—Financial Aid Form Simplification and Access Act—has several key components designed to make the college application process both simple and certain. As the advisory committee's recent report, The Student Aid Gauntlet, has shown, students today confront an overly burdensome and complex financial aid application process. Our legislation would simplify this process by allowing more students to qualify for an Automatic-Zero—auto-zero—Expected Family Contribution by aligning its eligibility with the standards of other federal means-tested programs, like free school lunch, SSI, and Food Stamps. Students and families should not have to prove over and over again that they are low-income, and asking students to fill out lengthy forms when they already meet the eligibility level for Pell Grants is a burden we should ease.

In a similar vein, the legislation establishes a short, paper EZ-FAFSA application form for students qualifying for the auto-zero; phases out the printing of the long paper form and utilizes the savings to bridge the digital divide for students without web access; requires the utilization of smart technology to create a tailored web-based application form that ensures students answer only the questions needed to determine financial aid eligibility in the State in which they reside; and creates a free telefile system for students without Internet access. Additionally, the FAFSA Act requires the Secretary, in cooperation with states and colleges, to develop a system for students to get early estimates of aid from multiple sources, learn if they qualify to fill out an EZ FAFSA, and notify those participating in Federal means-tested programs of their potential eligibility for a maximum Pell Grant. Simplified forms and an early information system providing details on what filling out these forms means to students is critical, particularly given the American Council on Education's findings that one of every five dependent low-income students and one of every four independent low-income students failed to take advantage of financial aid programs because they did not submit a FAFSA.

The FAFSA Act also expands college access for low-income students, in part by simplifying the application process for students with special circumstances, including students in foster care and emancipated youth; ensuring the equitable treatment of prepaid tuition and college savings plans; and reducing the work penalty. The current income protection allowance levels are unrealistically low, creating a disincentive for students to work in order to pay college costs.

We must act on these bills and others to make sure that every student who works hard and plays by the rules gets the opportunity to live the American Dream.

I was pleased to work with the Advisory Committee on Student Financial Assistance and a host of other higher education organizations and charitable foundations on these bills.

I urge my colleagues to cosponsor these bills and work for their inclusion in the upcoming reauthorization of the Higher Education Act.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1029

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 ''Accessing College through Comprehensive Early Outreach and State Partnerships Act''.

SEC. 2. GRANTS FOR ACCESS AND PERSISTENCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $500,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 5 succeeding fiscal years.

''(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.''.

(b) APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking ''$5,000'' and inserting ''$12,500'';

(2) in paragraph (9), by striking ''and'' after the semicolon;

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) provides notification to eligible students that such grants are—

''(A) Leveraging Educational Assistance Partnership Grants; and

''(B) funded by the Federal Government and the State.''.

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a) is amended to read as follows:

''SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

''(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

''(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties to carry out activities under this section and to provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend college;

''(2) provide need-based access and persistence grants to eligible low-income students;

''(3) provide early notification to low-income students of their eligibility for financial aid; and

''(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

''(b) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share of the cost of carrying out the activities under subsection (d).

''(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

''(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in its application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

''(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements under paragraph (2)(B)(ii).

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year may not exceed 66.66 percent.

''(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

''(i) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and philanthropic organizations that are located in, or that provide funding in, the State or private corporations that are located in, or that do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

''(ii) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, philanthropic organizations that are located in, or that provide funding in, the State, and private corporations that are located in, or that do business in, the State, then the Federal

share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

''(c) APPLICATION FOR ALLOTMENT.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—A State that desires to receive an allotment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

''(i) A description of the State's plan for using the allotted funds.

''(ii) Assurances that the State will provide matching funds, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). Matching funds from philanthropic organizations used to provide early information and intervention, mentoring, or outreach programs may be in cash or in kind. The State shall specify the methods by which matching funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's matching obligation under this clause.

''(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

''(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

''(v) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

''(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

''(I) Leveraging Educational Assistance Partnership Grants; and

''(II) funded by the Federal Government and the State.

''(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

''(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

''(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State;

''(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

''(C) not less than 1—

''(i) philanthropic organization located in, or that provides funding in, the State; or

''(ii) private corporation located in, or that does business in, the State.

''(4) ROLES OF PARTNERS.—

''(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) serve as the primary administrative unit for the partnership;

''(II) provide or coordinate matching funds, and coordinate activities among partners;

''(III) encourage each institution of higher education in the State to participate in the partnership;

''(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

''(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

''(ii) may provide early information and intervention, mentoring, or outreach programs.

''(B) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

''(II) provide support services to students who receive an access and persistence grant under this section and are enrolled at such institution; and

''(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

''(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

''(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

''(D) PHILANTHROPIC ORGANIZATION OR PRIVATE CORPORATION.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for access and persistence grants for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

''(d) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF PARTNERSHIP.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award access and persistence grants to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

''(B) AMOUNT.—

''(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

''(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of an access and persistence grant awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership.

''(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student).

''(ii) PARTNERSHIP WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(ii), the amount of an access and persistence grant awarded by such State shall be not more than an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership.

''(2) EARLY NOTIFICATION.—

''(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

''(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

''(i) shall include—

''(I) information about early information and intervention, mentoring, or outreach programs available to the student;

''(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early information and intervention, mentoring, or outreach program;

''(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

''(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

''(V) an explanation that in order to be eligible for an access and persistence grant, at a minimum, a student shall meet the requirement under paragraph (3), graduate from secondary school, and enroll at an institution of higher education that is a partner in the partnership;

''(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

''(VII) instructions on how to apply for an access and persistence grant and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

''(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

''(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

''(II) annual Federal and State appropriations; and

''(III) other aid received by the student at the time of the student's enrollment at an institution of higher education that is a partner in the partnership.

''(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that each such student meets not less than 1 of the following:

''(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

''(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

''(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

''(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

''(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

''(B) Is receiving, or has received, an access and persistence grant under this section, in accordance with paragraph (5).

''(4) GRANT AWARD.—Once a student, including those who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

''(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

''(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

''(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

''(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than 3.5 percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

''(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

''(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

''(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

''(i) SPECIAL RULE.—Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

''(j) REPORTS.—Not later than 3 years after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.''.

(d) CONTINUATION AND TRANSITION.—During the 2-year period commencing on the date of enactment of this Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a), as such section existed on the day before the date of enactment of this Act, to States that choose to apply for grants under such predecessor section.

(e) IMPLEMENTATION AND EVALUATION.—Section 491(j) of the Higher Education Act of 1965 (20 U.S.C. 1098(j)) is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon; and

(2) by striking paragraph (5) and inserting the following:

''(5) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, advise the Secretary on means to implement the activities under section 415E, and the Advisory Committee shall continue to monitor, evaluate, and make recommendations on the progress of partnerships that receive allotments under such section; and''.

S. 1030

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 ''Financial Aid Form Simplification and Access Act''.

SEC. 2. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (A)(i) and inserting the following:

''(i) the student's parents—

''(I) file, or are eligible to file, a form described in paragraph (3);

''(II) certify that they are not required to file an income tax return;

''(III) 1 of whom is a dislocated worker; or

''(IV) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) by striking subparagraph (B)(i) and inserting the following:

''(i) the student (and the student's spouse, if any)—

''(I) files, or is eligible to file, a form described in paragraph (3);

''(II) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

''(III) is a dislocated worker; or

''(IV) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(B) in paragraph (3), by striking ''A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files'' and inserting ''In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

''(A) the student's parents—

''(i) file, or are eligible to file, a form described in subsection (b)(3);

''(ii) certify that they are not required to file an income tax return;

''(iii) 1 of whom is a dislocated worker; or

''(iv) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) the sum of the adjusted gross income of the parents is less than or equal to $25,000; or'';

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

''(A) the student (and the student's spouse, if any)—

''(i) files, or is eligible to file, a form described in subsection (b)(3);

''(ii) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

''(iii) is a dislocated worker; or

''(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $25,000.''; and

(C) by striking the flush matter at the end and inserting the following:

''The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 478(f).''; and

(3) by adding at the end the following:

''(d) DEFINITIONS.—In this section:

''(1) DISLOCATED WORKER.—The term 'dislocated worker' has the same meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

''(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term 'means-tested Federal benefit program' means a mandatory spending

program of the Federal Government in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and includes the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).''.

(b) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended in the third sentence by inserting ''a family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)),'' after ''recent unemployment of a family member,''.

(c) REPORTING REQUIREMENTS.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The Secretary shall evaluate every 3 years the impact of including whether a student or parent received benefits under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 3 IMPROVING PAPER AND ELECTRONIC FORMS.

(a) SIMPLIFIED NEEDS TEST.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(a)) is amended by adding at the end the following:

''(3) SIMPLIFIED FORMS.—The Secretary shall make special efforts to notify families meeting the requirements of subsection (c) that such families may use the EZ FAFSA described in section 483(a)(2)(B) and notify families meeting the requirements of subsection (b) that such families may use the simplified electronic application form described in section 483(a)(3)(B).''.

(b) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1), (2), and (5);

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (8), (9), (10), and (11), respectively;

(C) by inserting before paragraph (8), as redesignated by subparagraph (B), the following:

''(1) IN GENERAL.—

''(A) COMMON FINANCIAL REPORTING FORMS.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid' or 'FAFSA'.

''(B) EARLY ANALYSIS.—The Secretary shall permit an applicant to complete a form described in this subsection prior to enrollment in order to obtain an estimate from the Secretary of the applicant's expected family contribution, as defined in section 473. Such applicant shall be permitted to update information submitted on a form described in this subsection completed prior to enrollment using the process described in paragraph (4).

''(2) PAPER FORMAT.—

''(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

''(B) EZ FAFSA.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements of section 479(c).

''(ii) REDUCED DATA REQUIREMENTS.—The EZ FAFSA shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(c).

''(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

''(C) PHASING OUT THE PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE AUTOMATIC ZERO EXPECTED FAMILY CONTRIBUTION.—

''(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

''(ii) PHASEOUT OF FULL PAPER FAFSA.—Not later than 5 years after the date of enactment of the Financial Aid Form Simplification and Access Act, to the extent practicable, the Secretary shall phaseout the printing of the full paper Free Application for Federal Student Aid described in subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

''(iii) AVAILABILITY OF FULL PAPER FAFSA.—

''(I) IN GENERAL.—Prior to and after the phaseout described in clause (ii), the Secretary shall maintain an online printable version of the paper forms described in subparagraphs (A) and (B).

''(II) ACCESSIBILITY.—The online printable version described in subclause (I) shall be made easily accessible and downloadable to students on the same website used to provide students with the electronic application forms described in paragraph (3).

''(III) SUBMISSION OF FORMS.—The Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded and printed in order to meet the filing requirements of this section and to receive aid from programs established under this title.

''(iv) USE OF SAVINGS TO ADDRESS THE DIGITAL DIVIDE.—

''(I) IN GENERAL.—The Secretary shall utilize savings accrued by phasing out the full paper Free Application for Federal Student Aid and moving more applicants to the electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

''(II) REPORT.—The Secretary shall report annually to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on steps taken to eliminate the digital divide and on the phaseout of the full paper Free Application for Federal Student Aid described in subparagraph (A). The report shall specifically address the impact of the digital divide on independent students, adults, and dependent students, including students completing applications described in this paragraph and paragraphs (3) and (4).

''(3) ELECTRONIC FORMAT.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—The Secretary shall produce, distribute, and process common financial reporting forms in electronic format (such as through a website called 'FAFSA on the Web') to meet the requirements of paragraph (1). The Secretary shall include an electronic version of the EZ FAFSA form for applicants who meet the requirements of paragraph (2)(B) and develop common electronic forms for applicants who meet the requirements of subparagraph (B) and common electronic forms for applicants who do not meet the requirements of subparagraph (B).

''(ii) STATE DATA.—The Secretary shall include on the common electronic forms described in clause (i) space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5). The Secretary may not require an applicant to complete data required by any State other than the applicant's State of residence.

(iii) STREAMLINED FORMAT.—The Secretary shall use, to the fullest extent practicable, all available technology to ensure that a student answers only the minimum number of questions necessary.

''(B) SIMPLIFIED APPLICATION.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

''(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application form shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(b).

''(iii) STATE DATA.—The Secretary shall include on the simplified electronic application form space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the simplified electronic application form.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application form, and the data collected by means of the simplified electronic application form shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the form developed under this subparagraph.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the use of the form developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium of such entities, or such other entities as the Secretary may designate.

''(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such electronic version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

''(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form to be submitted without a signature, if a signature is subsequently submitted by the applicant.

''(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

''(i) to enable the applicants to use such numbers in lieu of a signature for purposes of completing a form under this paragraph; and

''(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

''(4) REAPPLICATION.—

''(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to the year in which such applicant first applied for financial assistance under this title.

''(B) UPDATED.—The Secretary shall determine, in cooperation with States, institutions of higher education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

''(C) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

''(D) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

''(5) STATE REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form on October 7, 1998, unless States notify the Secretary that they no longer require those data items for the distribution of State need-based aid.

''(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which forms and data items the States require to award need-based State aid and other application requirements that the States may impose.

''(C) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring each State agency to inform the Secretary—

''(i) if the agency is unable to permit applicants to utilize the forms described in paragraphs (2)(B) and (3)(B); and

''(ii) of the State-specific data that the agency requires for delivery of State need-based financial aid.

''(D) STATE NOTIFICATION TO THE SECRETARY.—

''(i) IN GENERAL.—Each State shall notify the Secretary—

''(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid; and

''(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

''(ii) NO PERMISSION.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid—

''(I) the State shall notify the Secretary if it is not permitted to do so because of either State law or because of agency policy; and

''(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete the forms described in paragraphs (2)(B) and (3)(B).

''(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

''(I) permit residents of that State to complete the forms described in paragraphs (2)(B) and (3)(B); and

''(II) not require any resident of that State to complete any data previously required by that State.

''(E) RESTRICTION.—The Secretary shall not require applicants to complete any nonfinancial data or financial data that are not required by the applicant's State agency, except as may be required for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

''(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form developed by the Secretary pursuant to this subsection. No student may receive assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document, which the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and free financial aid application process, for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's Personal Identification Number for purposes of submitting an application on an applicant's behalf except State agencies that have entered into an agreement with the Secretary to streamline applications, eligible institutions, or programs under this title as permitted by the Secretary.

''(7) APPLICATION PROCESSING CYCLE.—The Secretary shall, prior to January 1 of a student's planned year of enrollment to the extent practicable—

''(A) enable the student to submit a form described under this subsection in order to meet the filing requirements of this section and receive aid from programs under this title; and

''(B) initiate the processing of a form under this subsection submitted by the student.''; and

(D) by adding at the end the following:

''(12) EARLY APPLICATION AND AWARD DEMONSTRATION PROGRAM.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall implement an early application demonstration program enabling dependent students to—

''(i) complete applications under this subsection in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education; and

''(ii) be eligible to receive aid under this title, aid from participants under this paragraph, State financial assistance as provided under section 415C, and other aid provided by participating institutions through the submission of an application as described in clause (i).

''(B) PURPOSE.—The purpose of the demonstration program under this paragraph is to measure the benefits, in terms of student aspirations and plans to attend college, and the adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this title, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from the year prior to the year prior to enrollment at an institution of higher education. Additional objectives associated with implementation of the demonstration program are the following:

''(i) Measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in such students' junior year of secondary school, using information from the year prior to the year prior to enrollment, by completing any of the application forms under this subsection.

''(ii) Determine the feasibility, benefits, and adverse effects of implementing a data match with the Internal Revenue Service.

''(iii) Identify whether receiving final financial aid awards not later than the fall of a student's senior year positively impacts the college aspirations and plans of such student.

''(iv) Measure the impact of using income information from the year prior to the year prior to enrollment on—

''(I) eligibility for financial aid under this title and for other institutional aid; and

''(II) the cost of financial aid programs under this title.

''(v) Effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of aid.

''(C) PARTICIPANTS.—The Secretary shall select, in consultation with States and institutions of higher education, States and institutions within the States interested in participating in the demonstration program under this paragraph. The States and institutions of higher education shall participate in programs under this title and be willing to make final financial aid awards to students

based on such students' application information from the year prior to the year prior to enrollment. Such awards may be contingent on the student being admitted to and enrolling in the participating institution the following year. The Secretary shall also select as participants in the demonstration program secondary schools that are located in the participating States and dependent students who reside in the participating States.

''(D) APPLICATION PROCESS.—The Secretary shall ensure that the following provisions are included in the demonstration program:

''(i) Participating States and institutions of higher education shall—

''(I) allow participating students to apply for financial aid as provided under this title during such students' junior year of secondary school using information from the year prior to the year prior to enrollment; and

''(II) award final financial aid awards to participating students based on the applications provided under the demonstration program.

''(ii) Participating States and institutions of higher education shall not require students participating in the demonstration program to complete an additional application in the year prior to enrollment in order to receive State aid under section 415C and any other institutional aid.

''(iii) Financial aid administrators at participating institutions of higher education shall be allowed to use such administrators' discretion in awarding financial aid to participating students, as outlined under sections 479A and 480(d).

''(E) DATA MATCH WITH THE INTERNAL REVENUE SERVICE.—The Secretary shall include in the demonstration project a data match with the Internal Revenue Service in order to verify data provided by participating students and gauge the feasibility of implementing such a data match for all students applying for aid under this title.

''(F) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program in order to measure the program's benefits and adverse effects as required under subparagraph (B).

''(G) OUTREACH.—The Secretary shall make appropriate efforts in order to notify States of the demonstration program. Upon determination of which States will be participating in the demonstration program, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within such participating States of the opportunity to participate in the demonstration program and of the participation requirements.

''(H) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance, established under section 491, on the design and implementation of the demonstration program and on the evaluation described in paragraph (F).'';

(2) by striking subsection (b) and inserting the following:

''(b) EARLY AWARENESS OF AID ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary shall make every effort to provide students with early information about potential financial aid eligibility.

''(2) AVAILABILITY OF MEANS TO DETERMINE ELIGIBILITY.—

''(A) IN GENERAL.—The Secretary shall provide, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, both through a widely disseminated printed form and the Internet or other electronic means, a system for individuals to determine easily, by entering relevant data, approximately the amount of grant, work-study, and loan assistance for which an individual would be eligible under this title upon completion and verification of a form under subsection (a).

''(B) DETERMINATION OF WHETHER TO USE SIMPLIFIED APPLICATION.—The system established under this paragraph shall also permit an individual to determine whether or not the individual may apply for aid using an EZ FAFSA described in subsection (a)(2)(B) or a simplified electronic application form described in subsection (a)(3)(B).

''(3) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

''(A) LOWER-INCOME STUDENTS.—The Secretary shall—

''(i) make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or benefits under such programs as the Secretary shall determine, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

''(ii) disseminate informational materials regarding the linkage between eligibility for means-tested Federal benefit programs and eligibility for a Federal Pell Grant, as determined necessary by the Secretary.

''(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other cooperating independent outreach programs, make special efforts to notify middle school students of the availability of financial assistance under this title and of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title.

''(C) SECONDARY SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, secondary schools, programs under this title that serve secondary school students, and cooperating independent outreach programs, make special efforts to notify students in their junior year of secondary school the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title upon completion and verification of an application form under subsection (a).'';

(3) in subsection (c), by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions'';

(4) by striking subsection (d);

(5) by redesignating subsection (e) as subsection (d); and

(6) by amending subsection (d), as redesignated by paragraph (5), to read as follows:

''(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

''(1) PREPARATION AUTHORIZED.—Nothing in this Act shall limit an applicant from using a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a).

''(2) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such common financial reporting form.

''(3) SPECIAL RULE.—Nothing in this Act shall limit preparers of common financial reporting forms required to be made under this title from collecting source information, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

''(4) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

''(A) clearly inform individuals upon initial contact (including advertising in clear and conspicuous language on the website of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such services through a website) that the common financial reporting forms that are required to determine eligibility for financial assistance under parts A through E (other than subpart 4 of part A) may be completed for free via paper or electronic forms provided by the Secretary;

''(B) refrain from producing or disseminating any form other than the forms produced by the Secretary under subsection (a); and

''(C) not charge any fee to any individual seeking such services who meets the requirements under subsection (b) or (c) of section 479.''.

(c) TOLL-FREE APPLICATION AND INFORMATION.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss), as amended by section 2, is further amended by adding at the end the following:

''(e) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide an application mechanism and timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or another appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 663 of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall test and implement, to the extent practicable, a toll-free telephone-based application system to permit applicants who are eligible to utilize the EZ FAFSA described in section 483(a) over such system.''.

(d) MASTER CALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1089(a)(1)(B)) is amended to read as follows:

''(B) by March 1: proposed modifications and updates pursuant to sections 478, 479(c), and 483(a)(5) published in the Federal Register;''.

(e) SIMPLIFYING THE VERIFICATION PROCESS.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

''(s) VERIFICATION OF STUDENT ELIGIBILITY.—

''(1) REGULATORY REVIEW.—The Secretary shall review all regulations of the Department related to verifying the information provided on a student's financial aid application in order to simplify the verification process for students and institutions.

''(2) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit a final report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on steps taken, to the extent practicable, to simplify the verification process. The report shall specifically address steps taken to—

''(A) reduce the burden of verification on students who are selected for verification at multiple institutions;

''(B) reduce the number of data elements that are required to be verified for applicants meeting the requirements of subsection (b) or (c) of section 479, so that only those data elements required to determine eligibility under subsection (b) or (c) of section 479 are subject to verification;

''(C) reduce the burden and costs associated with verification for institutions that are eligible to participate in Federal student aid programs under this title; and

''(D) increase the use of technology in the verification process.''.

SEC. 4. ALLOWANCE FOR STATE AND OTHER TAXES.

Section 478(g) of the Higher Education Act of 1965 (20 U.S.C. 1087rr(g)) is amended to read as follows:

''(g) STATE AND OTHER TAX ALLOWANCE.—

''(1) HOLD HARMLESS.—Notwithstanding any other provision of law, the annual updates to the allowance for State and other taxes in the tables used in the Federal Need Analysis Methodology to determine a student's expected family contribution for the award year 2005–2006 under part F of title IV, published in the Federal Register on Thursday, December 23, 2004 (69 Fed. Reg. 76926), shall not apply to a student to the extent the updates will reduce the amount of Federal student assistance for which the student is eligible.

''(2) PUBLICATION IN THE FEDERAL REGISTER.—For each award year after award year 2005–2006, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent. The Secretary shall phase-in the State and other tax allowances from the revised table for an award year proportionately over a period of time of not less than 2 years if a revised table was not published in the Federal Register during the previous award year.

''(3) AGREEMENT.—The Secretary is authorized to enter into agreement with the Commissioner of the Internal Revenue Service to develop the data required to revise the table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2).''.

SEC. 5. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Section 475(g)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087oo(g)(2)(D)) is amended to read as follows:

''(D) $9,000;''.

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended to read as follows:

''(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

''(I) $10,000 for single or separated students;

''(II) $10,000 for married students where both are enrolled pursuant to subsection (a)(2); and

''(III) $13,000 for married students where 1 is enrolled pursuant to subsection (a)(2);''.

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qq(b)(4)) is amended to read as follows:

''(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

''Income Protection Allowance

Family Size	Number in College				
	1	2	3	4	5
2	$17,580	$15,230			
3	20,940	17,610	$16,260		
4	24,950	22,600	20,270	$17,930	
5	28,740	26,390	24,060	21,720	$19,390
6	32,950	30,610	28,280	25,940	23,610

NOTE: For each additional family member, add $3,280.
For each additional college student, subtract $2,330.''.

SEC. 6. SIMPLIFICATION FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.

(a) INDEPENDENT STUDENT.—Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended to read as follows:

''(d) INDEPENDENT STUDENT.—

''(1) DEFINITION.—The term 'independent', when used with respect to a student, means any individual who—

''(A) is 24 years of age or older by December 31 of the award year;

''(B) is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;

''(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

''(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1)) or is currently serving on active duty in the Armed Forces;

''(E) is a graduate or professional student;

''(F) is a married individual;

''(G) has legal dependents other than a spouse; or

''(H) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

''(2) SIMPLIFYING THE DEPENDENCY OVERRIDE PROCESS.—Nothing in this section shall prohibit a financial aid administrator from making a determination of independence, as described in paragraph (1)(H), based upon a determination of independence previously made by another financial aid administrator in the same application year.''.

(b) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)), as amended by section 3, is further amended by adding at the end the following:

''(13) APPLICATIONS FOR STUDENTS SEEKING A DOCUMENTED DETERMINATION OF INDEPENDENCE.—In the case of a dependent student seeking a documented determination of independence by a financial aid administrator, as described in section 480(d), nothing in this section shall prohibit the Secretary from—

''(A) allowing such student to—

''(i) indicate the student's request for a documented determination of independence on an electronic form developed pursuant to this subsection; and

''(ii) submit such form for preliminary processing that only contains those data elements required of independent students, as defined in section 480(d);

''(B) collecting and processing on a preliminary basis data provided by such a student using the electronic forms developed pursuant to this subsection; and

''(C) distributing such data to institutions of higher education, guaranty agencies, and States for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards on a preliminary basis, pending a documented determination of independence by a financial aid administrator.''.

SEC. 7. TREATMENT OF PREPAYMENT AND SAVINGS PLANS UNDER STUDENT FINANCIAL AID NEEDS ANALYSIS.

(a) DEFINITION OF ASSETS.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)) is amended—

(1) in paragraph (1), by inserting ''qualified education benefits, except as provided in subparagraph (2),'' after ''tax shelters,'';

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

''(2) A qualified education benefit shall not be considered an asset of a dependent student for purposes of section 475. The value of a qualified education benefit for purposes of determining the assets of parents or an independent student shall be—

''(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; or

''(B) the current balance of any account that is established as a qualified education benefit for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account.

''(3) In this subsection, the term 'qualified education benefit' means—

''(A) a qualified tuition program (as defined in section 529(b)(1) of the Internal Revenue Code of 1986) or another prepaid tuition plan offered by a State; or

''(B) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).''.

(b) DEFINITION OF OTHER FINANCIAL ASSISTANCE.—Section 480(j) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(j)) is amended—

(1) in the heading, by striking ''; TUITION PREPAYMENT PLANS'';

(2) by striking paragraph (2);

(3) in paragraph (3), by inserting '', or a distribution that is not includable in gross income under section 529 of such Code, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such Code'' after ''1986''; and

(4) by redesignating paragraph (3) as paragraph (2).

(c) TOTAL INCOME.—Section 480(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(a)(2)) is amended to read as follows:

''(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), no portion of any tax

credit taken under section 25A of the Internal Revenue Code of 1986, and no distribution from any qualified education benefit defined in subsection (f)(3) that is not subject to Federal income tax, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.''.

SEC. 8. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098) is further amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), 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) to provide knowledge and understanding of early intervention programs and make recommendations that will result in early awareness by low- and moderate-income students and families of their eligibility for assistance under this title, and, to the extent practicable, their eligibility for other forms of State and institutional need-based student assistance; and

''(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions, and private entities to increase the awareness and total amount of need-based student assistance available to low- and moderate-income students.'';

(2) in subsection (d)—

(A) in paragraph (6), by striking '', but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses'';

(B) in paragraph (8), by striking ''and'' after the semicolon;

(C) by redesignating paragraph (9) as paragraph (10); and

(D) by inserting after paragraph (8) the following:

''(9) monitor the adequacy of total need-based aid available to low- and moderate-income students from all sources, assess the implications for access and persistence, and report those implications annually to Congress and the Secretary; and'';

(3) in subsection (j)—

(A) in paragraph (4), by striking ''and'' after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) monitor and assess implementation of improvements called for under this title, make recommendations to the Secretary that ensure the timely design, testing, and implementation of the improvements, and report annually to Congress and the Secretary on progress made toward simplifying overall delivery, reducing data elements and questions, incorporating the latest technology, aligning Federal, State, and institutional eligibility, enhancing partnerships, and improving early awareness of total student aid eligibility for low- and moderate-income students and families.''; and

(4) in subsection (k), by striking ''2004'' and inserting ''2011''.

By Ms. CANTWELL (for herself, Mr. JEFFORDS, and Mrs. CLINTON):

S. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to reintroduce the Electric Reliability Act of 2005, which I am pleased to introduce with my colleagues, Senator CLINTON and Senator JEFFORDS. This legislation would give the Federal Energy Regulatory Commission—FERC—authority to devise a system of mandatory and enforceable standards for the reliable operation of our Nation's electricity grid.

Enactment of this bill is long overdue. The provisions of this bill have passed the United States Senate many times. They represent crucial steps forward in the effort to modernize our Nation's electricity grid and reform the rules by which it is operated. I believe this body can and must make necessary progress in upgrading our electricity grid.

As surely my colleagues recall, in August of 2003 much of the Northeast and Midwest suffered a massive power outage, affecting 50 million consumers from New York to Michigan. This blackout, the biggest in our Nation's history, has underscored the need for mandatory and enforceable reliability standards—as envisioned in the Electric Reliability Act of 2005. To date, the system has operated under a set of voluntary guidelines, with no concrete penalties for those that break the rules and jeopardize the reliable energy service that is the foundation of our Nation's economy.

Following the August 2003 blackout in the NE, a joint report issued by the United States and Canada the following April recommended a number of policy changes on both sides of our shared border. The first recommendation in that report was to make reliability standards mandatory and enforceable with penalties for non-compliance. The Electric Reliability Security Act of 2005 does exactly that.

While the August 2003 blackout was certainly a potent reminder, the call for reliability legislation dates back at least another 5 years. In 1997, both a Task Force established by the Clinton administration's Department of Energy and a blue ribbon panel formed by the North American Electric Reliability Council—NERC—determined that reliability rules for our Nation's electric system had to be made mandatory and enforceable.

These conclusions resulted, in part, from an August 1996 blackout in the Western Interconnection, where the short-circuit of two overloaded transmission lines near Portland, OR, caused a sweeping outage that knocked out power for up to 16 hours in 10 States, including my home State of Washington. The blackout affected 7.5 million consumers from Idaho to California, resulting in the automatic shutdown of 15 large thermal nuclear generating plants in California and the Southwest—compromising the West's energy supply for several days, even after power had mostly been restored to end-users.

As outlined in Economic Impacts of Infrastructure Failures, a 1997 report submitted to the President's Commission on Critical Infrastructure Protection, the blackout was estimated to exact between $1 billion and $4 billion in direct and indirect costs to utilities, industry and consumers. The report also detailed the risks the outage posed to public health and safety, including an exponential increase in traffic accidents, hospitals forced to rely on emergency back-up power generation, and the grounding of more than 2,000 airline passengers.

While it took time to develop consensus, the Senate recognized the human and economic stakes associated with the reliable operation of the electricity grid. Stand-alone legislation very similar to what I have introduced today passed this body in June 2000, when this Chamber was under Republican control. And even as the majority has twice changed hands since then, the United States Senate has twice passed the very provisions included in the Electric Reliability Act of 2005 as part of comprehensive energy legislation.

Today I am introducing the Electric Reliability Act of 2005 as I believe it is time for this body to take concrete steps towards ensuring the continued reliable operation of our electric grid. This legislation would mark a substantial achievement in the effort to upgrade the reliability of our Nation's grid and insulate our economy from the disastrous impacts of electricity outages.

I ask my colleagues to support this bill.

By Mrs. BOXER:

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, at the end of 2002, the Maritime Transportation Security Act became law.

I was a member of the conference committee on that bill, and I think it was a good first step in improving security at our Nation's ports.

It had many good provisions, such as the creation of national and regional maritime transportation/port security plans to be approved by the Coast Guard; better coordination of Federal State, local, and private enforcement agencies; and the establishment of a grant program for port authorities, waterfront facilities operators, and State and local agencies to provide security infrastructure improvements.

The problem with the bill was that it had no guaranteed funding mechanism. As a result, we are underfunding port security. Since the passage of the Maritime Transportation Security Act, the Department of Homeland Security has awarded approximately $625 million in port security grants. This is not enough. The Coast Guard has estimated a need for $5.4 billion over 10 years for port facility upgrades, and $7.3 billion over 10 years for all port security. At the same time, the administration only requested $600 million for infrastructure protection in fiscal year 2006, and this meager figure does not even specify a dedicated portion for port security grants.

With over 40 percent of the Nation's goods imported through California's ports, a terrorist attack at a California port would not only be tragic but would be devastating for our Nation's economy.

So, today, I am reintroducing a bill to provide more funding to the ports. Specifically, it will create a Port Security Grant Program in the Department of Homeland Security; provide $800 million per year for 5 years in grant funding; and—this is very important to California's ports—allow the Federal Government to help finance larger multi-year projects similar to what is done with many of our airports for aviation security.

I hope that the Senate will act on this bill. Now is not the time to slow down or delay our efforts to increase and improve transportation security. The job is not done, and it must be done.

By Mr. McCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; to the Committee on the Judiciary.

Mr. McCAIN. Mr. President, after more than 5 months of work, I am pleased to be joined by Senators KENNEDY, BROWNBACK, LIEBERMAN, GRAHAM, and SALAZAR in introducing the Secure America and Orderly Immigration Act. This bipartisan, comprehensive immigration reform legislation is designed to fix our Nation's broken immigration system. This landmark legislation would bring common sense to the current system and promote our national security interests. I am equally pleased by the effort of Congressmen KOLBE, FLAKE, and GUTIERREZ who are introducing the House companion bill.

While in previous years we worked independently on immigration reform legislation, we are coming together today to introduce what we believe is groundbreaking, comprehensive legislation. Over a year ago, the President laid out a framework for what comprehensive immigration reform should look like. We have used the President's framework to craft this package and I applaud the President for his leadership on this issue.

The simple fact is that America's immigration system is broken. Recent vigilante activities along the southwestern border have shown that the current situation is not sustainable. Americans are frustrated with our lack of border security and our inability to control illegal immigration. We have spent billions of dollars on border enforcement. We have sent more, but still not enough, Federal agents to the border equipped with sophisticated technology. We have worked to harden the border in key places. And yet, illegal immigration continues.

I would like to mention some startling statistics that demonstrate the critical need for immigration reform. I think the numbers speak for themselves: Over 300 people died last year trying to cross the border; about 200 of those deaths occurred in Arizona's desert. Last year 1.1 million illegal immigrants were caught by the Border Patrol in 2004. Fifty-one percent of those were caught in Arizona. The Border Patrol is currently apprehending over 1,000 undocumented immigrants a day in Arizona. According to the FBI, an increasing number of these individuals are OTMs, Other Than Mexicans, from ''countries of interest.''

Homeland security is our Nation's number one priority, and this legislation includes numerous provisions that together will make our nation more secure. This bill includes provisions to strengthen border security, both on our side of the border and throughout this hemisphere. Through the establishment of a new electronic employment verification system, the bill will create a more secure mechanism to better enforce our nation's immigration laws within our borders. Additionally, the bill enhances the authority of the Department of Labor and the Department of Homeland Security to conduct random audits to ensure that employers are holding up their end of the bargain. And if they aren't, they face double fines.

Make no mistake, this is not an amnesty bill. We are not here to reward law-breakers, and any accusations to the contrary are patently untrue. This bill recognizes the problems inherent in the current system and provides a logical and effective means to address these problems. The reality is, there are an estimated million undocumented people living and working in this country. It would be impossible to identify and round up all 10 to 11 million of the current undocumented, and if we did, it would ground our Nation's economy to a halt. These millions of people are working. Aliens will not come forward to simply ''report and deport.'' We have a national interest in identifying these individuals, incentivizing them to come forward out of the shadows, go through security background checks, pay back taxes, pay penalties for breaking the law, learn to speak English, and regularize their status. Anyone who thinks this goal can be achieved without providing an eventual path to a permanent legal status is not serious about solving this problem.

Part of the failure of the existing system is its inability to provide sufficient legal channels to pair willing workers with willing employers. This bill establishes a new market-based temporary worker program so that when there is no U.S. worker to fill a job, employers will be able to hire willing and able foreign workers who have gone through security background checks, medical exams, and paid a fee for their visa. And, by doing away with outdated numerical caps on this program, this bill recognizes that the needs of the U.S. economy are constantly in flux, and our immigration system must match those needs.

I don't believe there is another issue that is more important to our Nation than immigration reform. For far too long, our Nation's broken immigration laws have gone unreformed, leaving Americans vulnerable. We can no longer afford to delay reform.

The complex and difficult problems associated with immigration reform will not be solved overnight, but they are among the most difficult challenges facing our Nation today. That is why it is so important that the President shares our commitment to comprehensive reform. Together with the President, I am committed to this process and remain very hopeful that we will succeed.

I want to especially express my appreciation to Senator KENNEDY and his staff for their sincere commitment to this critical issue. Also, the contributions to the bill as recommended by Senator BROWNBACK have been invaluable to this effort. I would also like to thank Senator LUGAR, who allowed us to incorporate critical international border enforcement provisions from his legislation, the North American Cooperative Security Act.

Through the collective efforts of a wide range of bipartisan interests in both Houses of Congress, not to mention immigration advocacy groups, representatives of our Nation's businesses, and several labor unions, this comprehensive legislation provides a meaningful direction for how our immigration system should be reformed, and our border security strengthened.

I look forward to working with all interested parties in the important and necessary effort to once and for all reform our broken immigration system.

Mr. KENNEDY. Mr. President, it's an honor to join Senator McCAIN and Congressmen GUTIERREZ, KOLBE, and FLAKE in introducing our bipartisan legislation to reform the Nation's immigration laws. The status quo is unacceptable, and legislation is urgently needed to deal with all the inadequacies in our current law, to end the suffering of long-separated families imposed by the broken system, and to do so in a way that reflects current realities.

We must modernize our broken immigration system to meet the challenges of the 21st century. And we need policies that continue to reflect our best values as a nation—fairness, equal opportunity, and respect for the rule of law.

One of the mistakes of the past is to assume that we can control illegal immigration on our own. A realistic immigration policy must be a two-way street. Under our plan, America will do its part, but we expect Mexico and other nations to do their part, too, to replace an illegal immigration flow with regulated, legal immigration.

Our bill will make our immigration policies more realistic and enforceable,

restore legality as the prevailing norm, and make it easier for immigrants to cooperate with local authorities. It will protect the labor rights of all workers, and create an even playing field for employers. It will strengthen our economy, restore control of our borders, and improve national security.

Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. Many industries depend heavily on immigrant labor. These men and women enrich our Nation and improve the quality of our lives. Yet, millions of today's immigrant workers are not here legally. They and their families live shadow lives in constant fear of deportation, and easy targets for abuse and exploitation by unscrupulous employers and criminals as well. Many risk great danger, and even death, to cross our borders.

Our bill offers practical solutions to deal with these basic problems. It contains an earned legalization program for immigrants who have been working in the United States for at least 6 years, a way to reduce the enormous backlog of petitions to unify immigrant families, and a revised temporary worker program. The bill also contains strict border security and enforcement provisions, and measures to ensure that other countries do their part by requiring them to help control the flow of their citizens to jobs in the United States.

We feel the bill is a realistic and practical solution to the complex immigration challenges facing the Nation for so long, and we've worked closely with as many interested groups as possible to make it fair to all.

Despite our compromises and bipartisan solutions, there are some who oppose these reforms. They misleadingly categorize our efforts as ''immigrant amnesty.'' They refuse to accept that these reforms simply create a legalization program for U.S. workers who have already been residing and working in the U.S. It is not a guarantee of citizenship, but an opportunity to continue working hard, start playing by the rules, and earn permanent residency.

And by bringing immigrants out of the shadows so they can earn a fair day's pay for a fair day's work, we are protecting American workers' rights and wages, too.

The legal status must be earned by proving past work contributions, making a substantial future work commitment, and paying of $2,000 in penalties.

First, workers will receive temporary resident status, based on their past work contributions. To earn permanent residence, they must work 6 more years. Otherwise, they will be dropped from the program and required to leave the country.

It's not an amnesty for them, because they have to earn it. We offer a fair deal: if they are willing to work hard for us openly, then we're willing to do something fair for them. It is the only realistic solution.

If there's any amnesty involved, it's what they have today—an acquiescence in their presence, because countless businesses could not function without them since no American workers can be found to fill their jobs. To be eligible for legal status, applicants must have no criminal or national security problems. All will be required to undergo rigorous security clearances. Their names will be checked against the government's criminal and terrorist databases, and the applicant's fingerprints will be sent to the FBI for a thorough background check.

It's long past time to put the underground economy above ground, and recognize the reality of immigrants in our workforce. It's the only way to achieve effective enforcement rules to protect and strengthen our labor system, and to stabilize our workforce for employers.

Our bill allows long-term, tax-paying immigrant workers to apply for earned adjustment of status. Studies show that there are now millions of illegal immigrants working in the U.S., and it would be irresponsible to continue to ignore this hidden past of our economic landscape.

Our bill is also about fairness. It ensures that the rights of all workers are protected—that the rights to organize, to change jobs between employers, and to have fair wages, fair hours, and fair working conditions—cannot be denied. Through this legislation, America can be proud again that our Nation protects the safety and rights of all our workers.

Our legislation is also about protecting families. Family unity has always been a fundamental cornerstone of America's immigration policy. Yet, millions of individuals today are waiting for immigrant visas to join with their families.

Our bill will allow these families to be reunited more quickly and humanely. It also removes and amends unnecessary obstacles in current law that separate families, such as the affidavit-of-support requirements and the rigid bars to admissibility. Our bill contains provisions that will expedite visas to reunite spouses and children of legal immigrants with their loved ones. It also provides measures to clear up the backlog of employment-based visas.

In addition, this bill recognizes the need for strong border protection and enforcement as part of immigration reform. It directs the Secretary of Homeland Security to develop and implement a National Strategy for Border Security to coordinate the efforts of Federal, State, local, and tribal authorities on border management and security. The Strategy will identify the areas most in need of enforcement and propose cost-effective ways to defend the border, including better ways of technology, improved intelligence-sharing and coordination. It also includes plans to combat human smuggling.

To further improve border enforcement, the bill improves the security of Mexico's southern border and assesses the needs of Central American governments in securing their borders. It provides a framework for better management, communication, coordination, and immigration control for all our governments, and encourages other governments to control alien smuggling and trafficking, prevent the use and manufacture of fraudulent travel documents, and share relevant information.

The bill also encourages so-called circular migration patterns. It provides for unprecedented cooperation with the governments of the United States, Canada, Mexico, and other Central American countries on issues of migration. It asks foreign countries to enter into agreements with the U.S. to help control the flow of their citizens to jobs in the U.S., with emphasis on encouraging the re-integration of citizens returning home.

It also encourages the U.S. government to partner with Mexico to promote economic opportunity back home and reduce the pressure for its citizens to immigrate to the U.S. It encourages partnership between the U.S. and Mexico on health care, so that we are not unfairly burdened by the cost of administering health care to Mexican nationals.

Further, the bill mandates that immigration-related documents issued by DHS be biometric, machine-readable, and tamper-resistant. It creates an Employment Eligibility Confirmation System, so that employers can verify an employee's identity and employment authorization, and an improved system to collect entry and exit data to determine the status of aliens after their arrival to and departure from the U.S. It protects against immigration fraud by improving regulations on who may appear in immigration matters.

Another important component of our bill is its State Criminal Alien Assistance Program, to reimburse states for the direct and indirect costs of incarcerating illegal aliens.

We know that these reforms are long overdue. The illegal workers here today are not leaving, and new ones continue to come in. A significant part of the workforce in many sectors of the economy, especially agriculture, is undocumented. Massive deportations are unrealistic as policy, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Americans want and deserve realistic solutions to the very real immigration problems we face. They don't want open borders, and they don't want closed borders. They want smart borders, which mean fair and realistic immigration laws that can actually be enforced, immigration laws that protect our security, respect our ideals, and honor our heritage as a Nation of immigrants.

America has been the Promised Land for generations of immigrants who

have found haven, hope, opportunity and freedom here. Immigrants have always been an indispensable part of our Nation. They have contributed immensely to our communities, created new jobs and whole new industries, served in our armed forces, paid their taxes, and help make America the continuing land of promise it is today.

It's obvious why the Nation's founders chose ''E Pluribus Unum''—''out of many, one'' as America's motto two centuries ago. These words, chosen by Benjamin Franklin, John Adams, and Thomas Jefferson, referred to their ideal that tiny quarreling colonies could be transformed into one Nation, with one destiny. That basic ideal applies to individuals as well. Our diversity is our greatest strength.

We are a Nation of immigrants, and we always will be, and our laws must be true to that proud heritage. Our bipartisan bill attempts to do that, and I look forward to working with the Administration and our colleagues on both sides of the aisle to enact it into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 136—DESIGNATING THE MONTH OF MAY 2005 AS ''NATIONAL DRUG COURT MONTH''

Mr. BIDEN (for himself, Mr. SESSIONS, and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 136

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality;

Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders;

Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and

Whereas the drug court movement has grown from the 12 original drug courts in 1994 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as ''National Drug Court Month''; and

(2) encourages the people of the United States and interested groups to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 137—DESIGNATING MAY 1, 2005, AS ''NATIONAL CHILD CARE WORTHY WAGE DAY''

Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DODD, Mr. FEINGOLD, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mr. KENNEDY, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources maybe reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designate May 1, 2005, as ''National Child Care Worthy Wage Day''; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

SENATE RESOLUTION 138—DESIGNATING JULY 23, 2005, ''NATIONAL DAY OF THE AMERICAN COWBOY''

Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, Mr. ENZI, Mr. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGAMAN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 139—EXPRESSING SUPPORT FOR THE WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA

Mr. REID (for himself, Mr. FRIST, and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

S. RES. 139

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics;

Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the disposition of former Soviet troops stationed in certain newly independent countries was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania;

Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia;

Whereas, during the Organization for Security and Co-operation in Europe summit at Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty;

Whereas as part of such bilateral agreement, which is known as the ''Istanbul Commitments'', on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000;

Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments;

Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country;

Whereas, during November 2003, the Georgian people, in the historic ''Rose Revolution'', peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a new government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development; and

Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve

congratulations for the accomplishments and successful reforms carried out in Georgia since President Mikheil Saakashvili's inauguration in January 2004, and that the United States should continue to support such reforms and should encourage and assist Georgia with strengthening its democratic institutions and resolving its separatist conflicts peacefully; and

(C) the United States should continue to support Georgia in its efforts to negotiate an agreement for ending Russia's military presence in Georgia, in accordance with Russia's obligations under the bilateral agreement made between Russia and Georgia as part of the Adapted Conventional Forces in Europe Treaty known as the ''Istanbul Commitments''; and

(2) the Senate—

(A) supports the efforts of President Bush to encourage Russia and Georgia to expeditiously reach agreement on the closure of Russian military bases in, and the withdrawal of military personnel from, Georgia;

(B) commends President Bush for being the first United States President to visit Georgia since its recognition as an independent and sovereign country; and

(C) will continue to monitor the situation in Georgia closely.

SENATE RESOLUTION 140—EXPRESSING SUPPORT FOR THE HISTORIC MEETING IN HAVANA OF THE ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA ON MAY 20, 2005, AS WELL AS TO ALL THOSE COURAGEOUS INDIVIDUALS WHO CONTINUE TO ADVANCE LIBERTY AND DEMOCRACY FOR THE CUBAN PEOPLE

Mr. MARTINEZ (for himself and Mr. NELSON of Florida, Mr. CORZINE, Mr. LUGAR, Mr. FEINGOLD, Mr. INHOFE, Mr. BAYH, Mr. DEWINE, Mr. LAUTENBERG, Mr. SANTORUM, Mr. SALAZAR, Mr. COBURN, Mr. LIEBERMAN, Mr. MCCAIN, Mr. CRAIG, Mrs. DOLE, Mr. ENSIGN, Mr. VITTER, and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 140

Whereas on May 20, 1902, the Republic of Cuba obtained its independence;

Whereas in the spirit of Jose Marti, many of the future leaders of a free Cuba have called for a meeting of the Assembly of the Civil Society in Cuba, an organization that consists of over 360 dissident and civil society groups in Cuba;

Whereas, on May 20, 2005, the Assembly to Promote the Civil Society in Cuba seeks to convene a historic meeting in Havana on the 103rd anniversary of Cuban Independence; and

Whereas the Assembly to Promote the Civil Society in Cuba will focus on bringing democracy and liberty to the island of Cuba: Now, therefore, be it

Resolved, That the Senate—

(1) extends its support and solidarity to the participants of the historic meeting, in Havana, of the Assembly to Promote the Civil Society in Cuba on May 20, 2005;

(2) urges the international community to support the Assembly and its mission to bring democracy and human rights to Cuba;

(3) encourages the international community to oppose any attempts by the Cuban government to repress, punish, or intimidate the organizers and participants of the Assembly; and

(4) shares the pro-democracy ideals of the Assembly to Promote the Civil Society in Cuba and believes that the Assembly and its mission will advance freedom and democracy for the people of Cuba.

SENATE RESOLUTION 141—DESIGNATING SEPTEMBER 9, 2005, AS ''NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY''

Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. STEVENS, Mr. DURBIN, Mr. COLEMAN, Mr. DODD, and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 141

Whereas the term ''fetal alcohol spectrum disorders'' includes a broader range of conditions and therefore has replaced the term ''fetal alcohol syndrome'' as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas the economic cost of fetal alcohol syndrome alone to the Nation was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost United States taxpayers between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked ''What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?''; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; and

(2) calls upon the people of the United States to—

(A) observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies to—

(i) promote awareness of the effects of prenatal exposure to alcohol;

(ii) increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) minimize further effects of prenatal exposure to alcohol; and

(iv) ensure healthier communities across the United States; and

(B) observe a moment of reflection on the ninth hour of September 9, 2005, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

SENATE CONCURRENT RESOLUTION 32—EXPRESSING THE SENSE OF CONGRESS THAT THE GOVERNMENT OF THE RUSSIAN FEDERATION SHOULD ISSUE A CLEAR AND UNAMBIGUOUS STATEMENT OF ADMISSION AND CONDEMNATION OF THE ILLEGAL OCCUPATION AND ANNEXATION BY THE SOVIET UNION FROM 1940 TO 1991 OF THE BALTIC COUNTRIES OF ESTONIA, LATVIA, AND LITHUANIA

Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 32

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression first through armed resistance movements and later through political resistance movements;

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union declared the Molotov-Ribbentrop Pact of 1939 void;

Whereas the illegal occupation and annexation of the Baltic countries is one of the largest remaining unacknowledged incidents of oppression in Russian history;

Whereas a declaration of acknowledgment of such incident by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make

peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

AMENDMENTS SUBMITTED AND PROPOSED

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. BAUCUS to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. FEINGOLD and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. DORGAN (for himself and Mr. REID) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 746. Mr. BYRD 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 747. Mr. BYRD 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 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. WARNER and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 749. Ms. SNOWE 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 750. Mr. LOTT (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. ALLEN (for himself and Mr. ENSIGN) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 751. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 752. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) 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 753. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. SANTORUM (for himself and Mr. SPECTER) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra .

SA 756. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 681 proposed by Mrs. CLINTON to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 758. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 647 submitted by Mr. SESSIONS and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 760. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

MAY 11, 2005

SA 695. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

At the end of subtitle H of title I, insert the following:

SEC. 1830. ANNUAL REPORT ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 180 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

''(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

''(C) A summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.''.

SA 696. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

At the end of the amendment add the following:

SEC. ____. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

TEXT OF AMENDMENTS

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. BAUCUS to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

SA 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. FEINGOLD and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

On page 2, strike lines 15 through 22, and insert the following:

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. DORGAN (for himself and Mr. REID) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

Strike all of page 2 and insert the following:

''(b) The Secretary of Energy shall direct the National Petroleum Council to conduct an evaluation and analysis determining the extent to which environmental and other regulations detrimentally affect new domestic refinery construction and significant expansion of existing refinery capacity.''

''(c) REPORTS TO CONGRESS.—

(1) On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission

(2) On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis;

(B) any recommendations of the National Petroleum Council.''

SA 746. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, 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; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $650,000,000 for the period of fiscal years 2005 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2005;

''(B) $130,000,000 shall be for fiscal year 2006;

''(C) $130,000,000 shall be for fiscal year 2007;

''(D) $130,000,000 shall be for fiscal year 2008; and

''(E) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other and any apportioned formula program including the equity bonus program; and

''(C) shall 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 1815(b)), is amended by adding at the end of the following:

''178. Appalachian development highway system completion program.''.

SA 747. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, 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; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

(e) FUNDING.—

(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $300,000,000 for the period of fiscal years 2005 through 2009, of which—

(A) $60,000,000,000 shall be for fiscal year 2005;

(B) $60,000,000,000 shall be for fiscal year 2006;

(C) $60,000,000,000 shall be for fiscal year 2007;

(D) $60,000,000,000 shall be for fiscal year 2008; and

(E) $60,000,000,000 shall be for fiscal year 2009.

(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other apportioned formula program including the equity bonus program; and

(C) shall 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 1815(b)), is amended by adding at the end the following:

178. Appalachian development highway system completion program.''.

SA 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. WARNER and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

At the appropriate place, insert the following:

(b) Coalfields Expressway, West Virginia.—

(1) DESIGNATION.—Except as provided in paragraph (2), there is designated as an addition to the Appalachian Development Highway System in the State of West Virginia, the Coalfields Expressway from Paynesville, West Virginia to Beckley, West Virginia.

(2) MODIFICATION OF MILEAGE.—Section 14501(a) of title 40, United States Code, is amended in the second sentence by striking ''3,090'' and inserting ''3,153.''.

SA 749. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 8, strike ''in the State of Maine'' and insert ''in the State of Maine (including the area designated as the Maine Turnpike)''.

SA 750. Mr. LOTT (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. ALLEN (for himself and Mr. ENSIGN) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

''§ 405. Safety belt performance grants

''(a) IN GENERAL.—The Secretary of Transportation shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

''(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

''(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

''(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

''(B) in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate for each of the 2 calendar years immediately preceding the fiscal year of a grant of 85 percent or more, as measured under criteria determined by the Secretary.

''(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c) of this title.

''(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (l)(A), a primary safety belt use law enacted after June 30th of any year shall—

''(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

''(B) be considered as if it were enacted after the beginning of the next Federal fiscal year.

''(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which—

''(A) the primary safety belt use law came into effect; or

''(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured by criteria determined by the Secretary),

whichever first occurs.

''(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to paragraph (4)).

''(c) GRANTS FOR PRE-2003 LAWS.—To the extent that amounts made available for any of fiscal years 2006 through 2009 exceed the total amounts to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003. The amount of a grant available to a State under this subsection shall be equal to 250 percent of the amount of funds apportioned to the State under section 402(c) of this title for fiscal year 2003. The Secretary may award the grant in up to 4 installments over a period of 4 fiscal years beginning with fiscal year 2006.

''(d) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall make additional grants under this section of any amounts available for grants under this section that, on July 1, 2009, are neither obligated nor expended.The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c) of this title.

''(e) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

''(A) intersection improvements;

''(B) pavement and shoulder widening;

''(C) installation of rumble strips and other warning devices;

''(D) improving skid resistance;

''(E) improvements for pedestrian or bicyclist safety;

''(I) railway-highway crossing safety;

''(G) traffic calming;

''(H) the elimination of roadside obstacles;

''(I) improving highway signage and pavement marking;

''(J) installing priority control systems for emergency vehicles at signalized intersections;

''(K) installing traffic control or warning devices at locations with high accident potential;

''(L) safety-conscious planning; and

''(M) improving crash data collection and analysis.

''(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

''(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

''(f) CARRY FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

''(g) FEDERAL SHARE.—The Federal share payable for grants under this subsection is 100 percent.

''(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—

''(1) a passenger car,

''(2) a pickup truck,

''(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.'' .

SA 751. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, 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; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. .—SENSE OF THE SENATE REAFFIRMING SUPPORT FOR CURRENT FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT

FINDINGS.—Congress finds that—

On March 11, 1998, the Senate agreed unanimously to a resolution reaffirming limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

In 2000, the United States Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles;

In 2004, the United States Department of Transportation released the Western Uniformity Scenario Analysis report, which stated the Department does not favor change in federal truck size and weight policy; that nationwide, the Department believes an appropriate balance has been struck on truck size and weight; and that the Department opposes a piecemeal approach to truck size and weight policy;

SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under section 127(a) and (d) of title 23, United States Code, should not be amended so as to weaken the current 'freeze' on those vehicles or result in any more or less restrictive prohibition or restriction on those vehicles.

SA 752. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transmit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment; insert the following:

Sec.____ Incentives for the installation of Alternative Fuel Refueling Stations.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 753. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

On page 1, strike line 5 and all that follows and insert the following:

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d),

but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, 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; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ____. SENSE OF THE SENATE REAFFIRMING SUPPORT FOR FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT.

(a) FINDINGS.—Congress finds that –

(1) on March 11, 1998, the Senate agreed unanimously to reaffirm limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

(2) in 2000, the Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure, and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles; and

(3) in 2004, the Department of Transportation released the Western Uniformity Scenario Analysis report, which stated that the Department—

(A) does not favor change in Federal truck size and weight policy;

(B) believes an appropriate balance has been struck nationwide on truck size and weight; and

(C) opposes a piecemeal approach to truck size and weight policy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under subsections (a) and (d) of section 127 of title 23, United States Code, should not be amended so as to—

(1) weaken the current ''freeze'' on those vehicles; or

(2) result in any more or less restrictive prohibition or restriction on those vehicles.

SA 755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. SANTORUM (for himself and Mr. SPECTER) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking ''Conduct'' and all that follows through ''interchange'' and inserting ''Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area''.

SA 756. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to the amendment SA 681 proposed by Mrs. CLINTON to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

In lieu of the matter proposed to be inserted, insert the following:

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;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies that are—

''(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(II) funded, in whole or in part, under this title; or

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(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.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

''(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

''(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

''(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(B) funded, in whole or in part, under this title.

''(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

''(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

''(B) shall—

''(i) consider guidance issued by the Administrator under paragraph (5);

''(ii) limit technologies to those identified by the Administrator under paragraph (5);

''(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

''(iv) give special consideration to small businesses that participate in projects funded under this title;

''(v) place priority on the use of—

''(I) diesel retrofit technologies and activities;

''(II) cost-effective strategies;

''(III) financial incentives using CMAQ resources and State resources; and

''(IV) strategies that maximize health benefits; and

''(vi) not include any activities prohibited by paragraph (4).

''(4) STATE LIMITATIONS.—Emission reduction strategies may not—

''(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

''(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

''(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

''(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

''(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

''(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

''(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

''(D) options and recommendations for the structure and content of emission reduction strategies including—

''(i) emission reduction performance criteria;

''(ii) financial incentives that use CMAQ resources and State resources;

''(iii) procedures to facilitate access by contractors to financial incentives;

''(iv) contract incentives, allowances, and procedures;

''(v) methods of voluntary emission reductions; and

''(vi) other means that may be employed to reduce emissions from construction activities; and

''(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

''(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—

''(1) IN GENERAL.—The credit allowed under subsection (a)—

''(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, CNG, LEG, LPG & hydrogen.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the

cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 758. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 647 by Mr. SESSIONS and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

At the end of the amendment, add the following:

SEC. _____. RAILWAY-HIGHWAY CROSSINGS.

Section 130(e) of title 23, United States Code (as amended by section 1401(c)(1)), is amended by inserting after ''railway-highway crossings'' the following: '', and at least $150,000,000 shall be authorized to be appropriated from the general fund of the Treasury for the elimination of hazards, installation of protective devices, and the purchase of automatic warning signals for use at railway-highway crossings''.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

''§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

''(A) is not a State-designated authority; but

''(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

''(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

''(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

''(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed MAGLEV project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the MAGLEV project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

''(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) of title 49, and

the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $6,000,000 for fiscal year 2005; and

''(II) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $25,000,000 for fiscal year 2005;

''(II) $37,000,000 for fiscal year 2006;

''(III) $21,000,000 for fiscal year 2007; and

''(IV) $9,000,000 for each of fiscal years 2008 and 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $500,000,000 for fiscal year 2005;

''(II) $650,000,000 for fiscal year 2006;

''(III) $850,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $600,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $13,000,000 for fiscal year 2005;

''(II) $16,000,000 for fiscal year 2006;

''(III) $8,000,000 for fiscal year 2007; and

''(IV) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

''(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

SA 760. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, 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; as follows:

On page 566, strike lines 2 through 9 and insert the following:

''(C) blast furnace slag aggregate;

''(D) silica fume;

''(E) foundry sand; and

''(F) 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.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 9:30 a.m., in closed session to mark up the National Defense Authorization Act for Fiscal Year 2006.

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 Thursday, May 12, 2005, at 10 a.m., on S. 967, Issues Related to the Broadcast of Prepackaged News Stories Produced by the Government Agencies.

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 Thursday, May 12, 2005, at 10 a.m., to hold a Business Meeting.

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 markup on Thursday, May 12, 2005, at 9:30 a.m., in SD226.

Agenda

I. Nominations: Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit; and Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia.

II. Bills: 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. SPECTER, LEAHY, HATCH, FEINSTEIN, GRASSLEY, DEWINE, GRAHAM

III. Matters: Senate Judiciary Committee Rules.

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 ''Executive Nominations'' on Thursday, May 12, 2005 at 4 p.m. in Dirksen Senate Office Building, Room 226.

Witness List

Panel I: The Honorable THAD COCHRAN, U.S. Senator, R–MS; the Honorable CHUCK GRASSLEY, U.S. Senator, R–IA; and the Honorable MITCH MCCONNELL, U.S. Senator, R–KY.

Panel II: Rachel Beard, to be an Assistant Attorney General; Alice S.

Fisher, to be an Assistant Attorney General; and Regina B. Schofield, to be an Assistant Attorney General.

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 Thursday, May 12, 2005, for a committee hearing titled ''An Open Discussion: Planning, Providing and Paying for Veterans' Long Term Care.'' The hearing will take place in room 418 of the Russell Senate Office Building at 10 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 May 12, 2005, at 2:30 p.m., to hold a business meeting.

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

SPECIAL COMMITTEE ON AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Thursday, May 12, 2005, from 3 to 5 p.m., in Hart 216 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, May 12, 2005, at 10:30 a.m., for a hearing entitled ''Examining USAID's Anti-Malaria Policies.''

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

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Emily Meeker, Rob Grayson, Waylon Mathern, and Jorlie Cruz for the remainder of the consideration of S. 732.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 59. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

NOMINATIONS DISCHARGED AND PLACED ON THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the nominations of Thomas Dorr, PN 68 and PN 69, and that the nominations be placed on the calendar, and finally that the Senate then return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DRUG COURT MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 136, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 136) designating the month of May 2005 as ''National Drug Court Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 136) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 136

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality;

Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders;

Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and

Whereas the drug court movement has grown from the 12 original drug courts in 1994 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as ''National Drug Court Month''; and

(2) encourages the people of the United States and interested groups to observe the month with appropriate ceremonies and activities.

NATIONAL CHILD CARE WORTHY WAGE DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 137, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 137) designating May 1, 2005, as ''National Child Care Worthy Wage Day.''

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. CORZINE. Mr. President, I rise today, along with Senators LAUTENBERG, BINGAMAN, DODD, DURBIN, FEINGOLD, INOUYE, KERRY, BOXER and KENNEDY, to speak about a resolution supporting National Child Care Worthy Wage Day. It is my hope that it will bring attention to early childhood education and the importance of attracting and retaining qualified childcare workers.

Every day, approximately 13 million children are cared for outside the home so that their parents can work. This figure includes 6 million of our Nation's infants and toddlers. Children begin to learn at birth, and the quality of care they receive will affect them for the rest of their lives. Early childcare affects language development, math skills, social behavior, and general readiness for school. Experienced childcare workers can identify children who have development or emotional problems and provide the care they need to take on life's challenges. Through the creative use of play, structured activities and individual attention, childcare workers help young children learn about the world around them and how to interact with others. They also teach the skills children will need to be ready to read and to learn when they go to school.

Unfortunately, despite the importance of their work, the committed individuals who nurture and teach our Nation's young children are undervalued. The average salary of a childcare worker is just under $18,000 annually. In 1998, the middle 50 percent of child care workers and preschool teachers earned between $5.82 and $8.13 an hour, according to the Department of Labor. The lowest 10 percent of childcare workers were paid an hourly rate of $5.49 or less. Only one third of our Nation's childcare workers have health insurance and even fewer have

pension plans. This grossly inadequate level of wages and benefits for childcare staff has led to difficulties in attracting and retaining quality caretakers and educators. As a result, the turnover rate for childcare providers is 30 percent a year. This high turnover rate interrupts consistent and stable relationships that children need to have with their caregivers.

If we want our children cared for by qualified providers with higher degrees and more training, we will have to make sure they are adequately compensated. Otherwise, we will continue to lose early childhood educators with BA degrees to kindergarten and first grade, losing some of our best teachers of young children from the early years of learning.

In order to bring attention to childcare workers, I am sponsoring a resolution that would designate May as National Child Care Worthy Wage Day. On May 1 each year, childcare providers and other early childhood professionals nationwide conduct public awareness and education efforts highlighting the importance of good early childhood education.

I encourage my colleagues to join me in recognizing the importance of the work and professionalism that childcare workers provide and the need to increase their compensation accordingly. The Nation's childcare workforce, the families who depend on them, and the children they care for, deserve our support.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 137) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources may be reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 1, 2005, as ''National Child Care Worthy Wage Day''; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 138, 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. 138) designating July 23, 2005, as National Day of the American Cowboy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 138) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

EXPRESSING SUPPORT FOR WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 139 submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 139) expressing support for the withdrawal of Russian troops from Georgia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, on April 9, 1991, the Republic of Georgia declared its independence from the Soviet Union. Later that December, it was formally recognized by the international community as a sovereign and independent nation.

Throughout the Cold War, the Soviet Union stationed troops and maintained military bases in many of the republics and countries along its border. When the Soviet Union collapsed in 1991, most of these forces withdrew to Russia and former Soviet military bases were closed.

Today, however, more than a decade after obtaining its independence, Georgia has not been able to rid itself of the Russian military presence. Several years ago, Russia pledged to withdraw its military personnel and close its military bases in Georgia. However, Russia has failed to fulfill its commitments. More than 3,000 Russian troops are still present in Georgia.

It is time for these forces to leave. I urge Russia's leaders to respect the sovereignty and territorial integrity of Georgia, to fulfill its obligations, and work with Georgia's leaders to end its military presence there.

In November 2003, the people of Georgia demonstrated their desire to free themselves of the bonds of foreign domination.

They peacefully protested fraudulent elections and succeeded in installing a government committed to democracy, human rights, and the rule of law. The Rose Revolution was a triumph for freedom and has truly been an inspiration to us all.

Georgia's President Mikheil Saakashvili and the Government and people of Georgia have exhibited steadfast determination in their efforts to regain their sovereignty and protect their new democracy.

The United States should continue to support the Georgian people as they work to strengthen their democratic institutions and end Russia's military presence.

I applaud President Bush for his recent visit to the Georgia Republic. And I wholeheartedly support his commitment to the spread of freedom and democracy in the states of the former Soviet Union.

President Saakashvili and the people of Georgia deserve deep admiration for their extraordinary accomplishment. I

am confident that their example will continue to inspire millions around the world who hope for a future of freedom and prosperity.

Mr. REID. Mr. President, I appreciate the support of the Senate in approving this resolution regarding the territorial integrity of Georgia. It is important that the Senate speak on this matter with one voice and at this time, as President Bush just wrapped up his trip to Europe and Russia with a 2-day visit to Tiblisi, Georgia.

I was in Georgia 6 weeks ago. I went there at the urging of the former Prime Minister, who died tragically in an accident several months ago. The Prime Minister came to visit me here in my Capitol office, and he described his country to me: mountainous, filled with historic churches, strategically important, and a friend to the United States. ''You have to go there,'' he said. I promised him that I would go there, and even after he died, I wanted to fulfill that commitment.

And after having spent 2 days and nights in Georgia, I can say that the Prime Minister's description was right on the mark. Georgia is a beautiful country, with an incredible history and stunning architecture. Above all, the Georgian people have a wonderful spirit.

Less than years ago, Georgia underwent the peaceful ''Rose Revolution.'' A group of young, thoughtful and energetic reformers took on the corrupt leaders of the Soviet era, denying them an opportunity to steal a parliamentary election. Thousands gathered in Freedom Square, night after night, to expose the fraud and criminality of the previous regime. From that point on, there was no turning back. Democracy had finally arrived in Georgia.

But Georgian sovereignty and independence has been put at some risk recently through the continued basing of Russian troops on Georgian soil. Previous agreements negotiated with the Russian government calling for the complete withdrawal of Russian troops have been ignored. Some 3,000 Russian military personnel still remain in Georgia. It is time for them to go. I am confident that President Bush carried that message to President Putin during his recent visit.

I am glad we could pass this Resolution calling on Russia to support the territorial integrity of Georgia, and expressing our support for the Georgian people and their pursuit of democracy. Georgia is our friend, our ally and our strategic partner. Passage of this resolution sends exactly the right message to the Russian Government and to the people of Georgia. Again, I appreciate the support of my colleagues and I commend the President for his decision to visit Georgia. I know he was as well received as our Senate delegation was.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 139

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics;

Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the disposition of former Soviet troops stationed in certain newly independent countries was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania;

Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia;

Whereas, during the Organization for Security and Co-operation in Europe summit at Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty;

Whereas as part of such bilateral agreement, which is known as the ''Istanbul Commitments'', on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000;

Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments;

Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country;

Whereas, during November 2003, the Georgian people, in the historic ''Rose Revolution'', peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a new government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development; and

Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve congratulations for the accomplishments and successful reforms carried out in Georgia since President Mikheil Saakashvili's inauguration in January 2004, and that the United States should continue to support such reforms and should encourage and assist Georgia with strengthening its democratic institutions and resolving its separatist conflicts peacefully; and

(C) the United States should continue to support Georgia in its efforts to negotiate an agreement for ending Russia's military presence in Georgia, in accordance with Russia's obligations under the bilateral agreement made between Russia and Georgia as part of the Adapted Conventional Forces in Europe Treaty known as the ''Istanbul Commitments''; and

(2) the Senate—

(A) supports the efforts of President Bush to encourage Russia and Georgia to expeditiously reach agreement on the closure of Russian military bases in, and the withdrawal of military personnel from, Georgia;

(B) commends President Bush for being the first United States President to visit Georgia since its recognition as an independent and sovereign country; and

(C) will continue to monitor the situation in Georgia closely.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

AUTHORIZING USE OF CAPITOL GROUNDS FOR DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the en bloc consideration of the following concurrent resolutions which were received from the House: H. Con. Res. 86, H. Con. Res. 135, H. Con. Res. 136.

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

The Senate proceeded to consider the concurrent resolutions.

Mr. FRIST. I ask unanimous consent that the concurrent resolutions be agreed to and the motions to reconsider be laid upon the table en bloc.

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

The concurrent resolutions (H. Con. Res. 86, H. Con. Res. 135, and H. Con. Res. 136) were agreed to.

NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 141, 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. 141) designating September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day.''

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. On Wednesday, May 18, parents of children afflicted with Fetal Alcohol Spectrum Disorders and their advocates will travel to our Nation's Capital for the Second Annual FASD Hill Day. FASD Hill Day is sponsored by the National Organization on Fetal Alcohol Syndrome and organizations that support those who care for FASD children in our States and communities.

Nobody knows better than a parent of a child afflicted with FASD how challenging it is to raise a child who

was exposed to alcohol before birth. Nobody knows better the physical, mental, behavioral and learning disabilities that can have lifelong implications. I would urge my colleagues to open their offices to the parents and advocates who participate in FASD Hill Day because they have a very important story to tell. Their stories will move you.

At the conclusion of FASD Hill Day, the National Organization on Fetal Alcohol Syndrome will host its annual Leadership Awards Benefit Reception. All of the parents and advocates are invited to participate. I am pleased to inform my colleagues that the distinguished Senator from Wyoming, Mr. ENZI, and our distinguished colleague from Illinois, Mr. DURBIN, will receive the 2005 Leadership Award at the benefit reception. As a Senator who represents a State with one of the highest incidence rates of Fetal Alcohol Spectrum Disorders, I appreciate the leadership of Senator DURBIN and Senator ENZI, and the support of all of our colleagues, in the crusade to eradicate fetal alcohol spectrum disorders.

The term fetal alcohol spectrum disorders, or FASD, was coined by experts as an umbrella term to describe the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. It refers to conditions such as fetal alcohol syndrome, fetal alcohol effects, alcohol-related neurodevelopmental disorder and alcohol-related birth defects.

The only cause of FASD is alcohol use during pregnancy. When a pregnant woman drinks, the alcohol crosses the placenta into the fetal blood system. Thus, alcohol reaches the fetus, its developing tissues and organs. This is how brain damage occurs, which in turn can lead to mental retardation, social and emotional problems, learning disabilities and other problems. In fact, FASD is the leading cause of mental retardation in all of western civilization, including the United States.

Since the only cause of FASD is prenatal alcohol consumption it follows that by abstaining from the consumption of alcohol during pregnancy a woman can completely foreclose the possibility that her baby will be born with one or another of the conditions that are regarded fetal alcohol spectrum disorders.

Every day of the year we must remind women that no amount of alcohol consumed during pregnancy is safe for their baby. No alcohol during pregnancy is safe. None at all.

To dramatize this point, a group of parents who were raising children afflicted with fetal alcohol came together on the Internet and wondered in cyberspace, ''What if a world full of FAS and FAE parents all got together on the 9th hour of the 9th day of the 9th month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol?'' If this were to occur, they wondered, ''Would the world listen?''

On the 9th hour of the 9th day of the 9th month every year they called upon all the peoples of the world to observe a moment of silence to remind women of childbearing age that no amount of alcohol is safe during pregnancy.

These pioneering activists, most of whom were adoptive and foster parents, led by Brian Philcox and Bonnie Buxton of Toronto, Canada, and Teresa Kellerman of Tucson, AZ, did not have the resources of large public relations firms or well connected lobbyists. They organized the first International FAS Awareness Day, which was observed on September 9, 1999, on a shoestring using the Internet. Rapidly their group grew to include more than 70 volunteer coordinators in eight countries. Each year I receive e-mails from places like New Zealand, Germany, and my own State of Alaska, telling me about their local FAS Day observances. Through this grassroots awareness effort, many women of childbearing age learned for the first time that no amount of alcohol in pregnancy is good.

On September 9, 2004, for the first time, the moment of silence was observed on the Senate floor. I would hope that this would become an annual tradition until fetal alcohol spectrum disorders are eradicated.

The resolution that I have introduced today designates September 9, 2005, as National Fetal Alcohol Spectrum Awareness Day. Although September 9 is several months off, I have asked that the resolution be considered at this time as a tribute to the efforts of the FASD parents and advocates who have come to Washington, DC, educate all of us about the dangers of alcohol and pregnancy and to provide them with a tool to encourage each of their communities to observe and participate in FASDAY 2005 when they return home.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 141) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 141

Whereas the term ''fetal alcohol spectrum disorders'' includes a broader range of conditions and therefore has replaced the term ''fetal alcohol syndrome'' as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas the economic cost of fetal alcohol syndrome alone to the Nation was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost United States taxpayers between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked ''What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?''; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; and

(2) calls upon the people of the United States to—

(A) observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies to—

(i) promote awareness of the effects of prenatal exposure to alcohol;

(ii) increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) minimize further effects of prenatal exposure to alcohol; and

(iv) ensure healthier communities across the United States; and

(B) observe a moment of reflection on the ninth hour of September 9, 2005, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

ORDERS FOR FRIDAY, MAY 13, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, May 13. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 3, the highway bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of the highway bill. Earlier today we invoked cloture on the substitute amendment, and the chairman and ranking member were able to construct a final list of amendments. We are now on a glidepath to complete work on this legislation early next week, and I do want to thank all Members for their hard work and cooperation.

With that being said, there is still work to be done. The bill managers will be here tomorrow morning to receive the final few amendments. There will be no rollcall votes tomorrow, but I encourage those Members who have amendments on the final list to come to the floor tomorrow to offer and debate their amendments. We will be voting on Monday evening, and that would be the next rollcall vote.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:40 p.m., adjourned until Friday, May 13, 2005, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, May 12, 2005:

DEPARTMENT OF DEFENSE

JOHN PAUL WOODLEY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

HONORING GEORGE LAW

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. HALL. Mr. Speaker, I am honored to pay tribute to George Law of Sulphur Springs, TX, who has been selected as the Sulphur Springs Kiwanis Layperson of the Year by Golden K and Sulphur Springs Kiwanis Clubs.

These Clubs will recognize George at a special dinner on May 19, 2005. Hopkins County Judge Cletis Millsap and the Commissioners Court will proclaim May 20 as George Law day. Sulphur Springs Mayor Chris Brown and members of the City Council will issue a proclamation in his honor. State Representative Mark Homer will send special recognition from the Texas Legislature, and I appreciate the opportunity to recognize this outstanding citizen of Sulphur Springs in the CONGRESSIONAL RECORD.

George is a retired educator, having served more than 20 years as both a teacher and principal. George was vocational agriculture teacher in McCauley, science teacher and Kiwanis Key Club advisor in Sulphur Springs, and principal in the Como-Pickton Consolidated Independent School District. Throughout his years as an educator, George exceeded what might be expected to challenge and encourage young people. He provided emotional support and, in some cases, financial assistance to some of his students in critical need. Untold numbers of former students who have gone on to complete their college education give George the credit for challenging and supporting them.

In addition to his work in education, George has devoted countless hours to his community. For more than 35 years he has been a strong supporter of Boy Scouts and continues to support scouting both financially and through his personal efforts. He has been a driver for the Road to Recovery Program, driving residents to other cities for medical appointments and treatment.

George also is an active member and trustee of First United Methodist Church of Sulphur Springs. As a member of the church building committee, he served as contractor for the renovation of the church administration building free of charge. George has been president of the Messengers' Class, Methodist Men, serves as an usher and helps in the church kitchen. Everywhere he goes George is a general advocate for his church.

George and his wife, Barbara, have instilled good work ethics in their children and grandchildren. When he left the teaching profession he would never say he retired. He would say, "I just quit," and continued to work tirelessly for his family, his church, the Sulphur Springs Golden K Kiwanis, and his community.

According to Kerry Craig, assistant editor of the Sulphur Springs News Telegram, on any project George undertakes, his approach is to "Lead, follow, or get out of the way." Mr. Speaker, so many in Sulphur Springs have benefited from George's leadership and involvement in his community. Today in the House of Representatives, let us join his family and many friends in paying tribute to this outstanding citizen and great American—George Law.

RECOGNIZING THE REVEREND MICHAEL H. HARRISON, SR.

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. RYAN of Ohio. Mr. Speaker, I rise today in recognition of The Reverend Michael H. Harrison, Sr., for his decade of inimitable service to the Youngstown community.

After serving the United Baptist Church in Akron for 10 years, Pastor Harrison was called to lead the 125-member congregation of the Union Baptist Church in Youngstown, Ohio, in 1995. In just four years, the Pastor built the congregation to more than 650 people from our community. Today, thanks to his work, a new sanctuary of the Union Baptist Church can seat over 800 worshippers.

In addition to his tireless commitment to his church and congregation, Pastor Harrison has shared his leadership with countless other civic and religious organizations. He is Chair of the African-American Leadership Commission and is also the 1st Vice President of the Ohio Baptist State Convention. The Pastor previously served as President of the Baptist Pastor's Council of Youngstown and vicinity. In 2004, he was honored as "One of the World's Most Beloved Pastors" by Gospel Today Magazine.

I commend The Reverend Michael H. Harrison, Sr., for his selfless dedication to our community.

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 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. UDALL of Colorado. Mr. Chairman, I do not support this bill in its current form, and must vote against it.

Gang violence is real and serious. And there are already a wide range of Federal laws on the books that can be and are used to combat it. For example, Federal prosecutors are already armed with the Continuing Criminal enterprise, CCE, and Racketeer Influenced and Corrupt Organizations Act, RICO, statutes.

So, is there an urgent need to pass new legislation that "federalizes" criminal gang activity and pushes the Federal Government further into law enforcement that is now being handled by the states? I doubt it, and think a better approach would be to support state and local law enforcement directly.

I am also not convinced that it makes sense to further expand the definition of criminal street gang and to reclassify some misdemeanors as crimes of violence, as this bill would do, and I am particularly concerned about the provisions to establish new mandatory minimum sentences.

Violent and dangerous people, whether members of gangs or not, need to be securely confined. But our experience with mandatory minimum sentences shows they are ineffective in preventing crime, they distort the sentencing process, and result mainly in a considerable waste of taxpayers' money.

I think instead of adding new Federal laws, Congress would achieve better results by providing greater assistance to state and local law enforcement agencies and to prevention programs which can reduce the impetus for young people to join gangs.

The bill does include some provisions that I support, including those that will make it easier for law enforcement agencies to have access to information about people who are in the country illegally and are subject to deportation. However, I think that they are outweighed by the bill's defects and so I will vote against this measure.

PISKARYOVSKOYE MEMORIAL CEMETERY AT ST. PETERSBURG, RUSSIA

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. WILSON of South Carolina. Mr. Speaker, the eyes of the world have been on Moscow this week as Allies celebrated the 60th anniversary of victory over Nazism.

When Russians historically held off the 900–day siege of Leningrad, St. Petersburg served as an extraordinary front in Russia. The Piskaryovskoye Memorial Cemetery at St. Petersburg is a vivid reminder of this sacrifice, containing over 600,000 deceased in the largest mass grave in history.

On Sunday, I joined Congresswoman MADELEINE BORDALLO in representing the United States at a wreath laying ceremony attended by representatives from 30 other nations. The program was inspiring and recognized the restored friendship of the people of Russia and America.

St. Petersburg Governor Valentina Matviyenko, Vice Governor Aleksandr

Prokhorenko, and the courageous Siege veteran essayist Daniil Granin served as the gracious hosts of our visit. Each host sincerely conveyed warm Russian hospitality in one of the world's most beautiful cities.

Additionally, the professional staff of the U.S. Consulate at St. Petersburg including the U.S. Marine contingent was very helpful. Acting Consul General Karen Malzahn with her staff have a proven record of enthusiasm and continues to represent America at its best.

HONORING THE MEMORY OF MRS. LANCIE M. THOMAS

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BONNER. Mr. Speaker, Mobile County and indeed the entire State of Alabama recently lost a dear friend, and I rise today to honor her and pay tribute to her memory. Mrs. Lancie B. Thomas was a devoted family woman and a pioneer in the Alabama publishing community.

A native of Beatrice, Alabama, Mrs. Thomas attended the Monroe County Training School, Tuskegee University, and Alabama State University, and following her education she worked for many years as a home economics teacher in the Tuscaloosa County school system. Upon leaving the teaching profession, she began to assist her husband, the late Frank Thomas, with the building of several newspapers throughout the state of Alabama. These included the Selma (Alabama) Citizen, the Alabama Citizen in Tuscaloosa, and the Mobile Weekly Review. The Weekly Review, started in 1943, had its named changed to the Beacon in 1954 and has continued operations to the present day. During her long newspaper career, Mrs. Thomas worked in a variety of positions in the family's newspaper business, including those of vice president, secretary, and treasurer. She eventually became the editor and publisher of the Beacon and continued in that position until her retirement as publisher emeritus in 1997.

Even with her numerous professional obligations, Mrs. Thomas also found time to involve herself in several Mobile community organizations and other causes which had an impact on the local, state, and federal levels. Beginning in the 1940s, she was involved in voter registration efforts throughout Alabama and became involved in numerous political, social, and religious organizations throughout the United States. She was instrumental in the formation of Mobile's Hillsdale Presbyterian Church and served as one of that parish's founding elders, as well as devoting significant time to attending to the needs of the congregation, both young and old alike. Mrs. Thomas served as the vice president of the Presbyterian Woman of South Alabama and was in 1988 selected to represent south Alabama at the Bicentennial Celebration of the Presbyterian Church, U.S.A.

She was also a member of the Alabama Press Association, the National Newspaper Publishers Association, the Greater Mobile Area Chamber of Commerce, the Advertising Federation of Greater Mobile, the South Alabama Region Planning Committee, the Mobile Mental Health Center, the Drug and Alcohol Council, and the Better Business Bureau.

Notwithstanding her significant professional accomplishments, Mrs. Thomas was also recognized on numerous occasions for her impact on her community and on the African-American population in Alabama and across the country. She was honored by the Alabama Press Association for lifetime achievement, and in 1974 was honored by the National Council of Negro Women for her professional accomplishments. Additionally, the NAACP recognized her efforts nationally in 1998, and she is the first African-American to be inducted into Auburn University's Hall of Honor. She has also been recognized by the City of Mobile, the Mobile County Commission, and such organizations as the Drug Education Council, the American Red Cross, the Salvation Army, the Alabama Department of Industrial Relations, and the National Newspaper Publishers Association.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout south Alabama. Throughout her life, Lancie Thomas set a standard of excellence in the newspaper business second to none. More importantly, however, she set a standard of excellence in her achievements specifically on behalf of the American-American community, but also for the entire City of Mobile, her State, and her Nation. She will be deeply missed by her family—her daughter, Cleretta Thomas Blackmon, her stepdaughter, Audrey Thomas, her siblings, Alberta B. Ford, Robert Black, Ruth B. Jefferson, Jency B. Mitchell, Alexander Black, Bennye B. Reasor, and Rufus Black, and her grandchildren—as well as the countless friends she leaves behind. Our thoughts and prayers are with them all at this difficult time.

IN MEMORY OF LEO HACKNEY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. HALL. Mr. Speaker, it is a privilege to celebrate the life of a great East Texan and my good friend, Leo Hackney, who passed away on February 22 at the age of 85. Leo was one of the giants in Greenville, Texas, where he devoted his life to serving the citizens of his beloved community.

Leo served as Mayor of Greenville three times and as Mayor Pro-Tem and Council Member. He was chairman of the Greenville Board of Development and president of the Chamber of Commerce. He served as tri-captain for Greenville's Sesquicentennial Celebration that established the Audie Murphy Statue for the city. He served as a member of the Greenville Independent School District, Greenville Hospital, YMCA, U.S. Savings Bond Board, Citizens for Growing Greenville, Greenville Majors Baseball Team Club and Junior Chamber of Commerce. He headed the March of Dimes Drive and United Way Fund, the drive to build a Sports Complex for the City, and served as president of the Hunt County Development Council. He was one of the organizers of Colonial Bank and operated it for several years. Earlier in his career, he joined KGVL radio station, beginning in sales and reporting and working up to general manager and eventually president. He later became president of sister FM station KIKT and built the first cable television system in Greenville.

Leo's many accomplishments could fill volumes, and his influence in Greenville and Hunt County will be felt for years to come. In recognition of his significant contributions, the Greenville Herald Banner named Leo Outstanding Young Man in 1958, and he received the Greenville Worthy Citizen of the Year award in 1975. The street leading up to the Sports Complex was named Leo Hackney Boulevard in his honor.

Leo also served his Nation with distinction during World War II. He graduated in the top three percent of Naval Midshipman School and served as Captain of the ship that escorted General Douglas McArthur in the Philippines. He retired as Captain from the U.S. Navy after 27 years of service.

For 20 years Leo served on the committee to nominate youth to military academies for my predecessor, Congressman RAY ROBERTS, and continued to serve for another 20 years on my committee to recommend academy appointments. He served with distinction and was my trusted adviser and good friend.

Leo also was devoted to his family—his wife, Dava, daughters and sons-in-law Susan and Jim Rath of Houston and Sharon and Joe Leonard of Greenville, brother Bill Hackney of Cibolo and six grandchildren. He was a wonderful husband, father, and grandfather who supported and encouraged his family, and he leaves behind a legacy of kindness and accomplishments that will endure for generations.

Leo excelled in all that he did at every stage of his life. He was never satisfied to be only a member or supporter. He was a leader, and when he wasn't leading, he made others better leaders through his example and encouragement. Leo was never simply a friend—he was a best friend to so many. The City of Greenville and our Nation are enriched by the life of this esteemed citizen. Mr. Speaker, as we adjourn today, let us do so in honor and memory of this wonderful man, great American and my good friend—Leo Hackney.

THE INTRODUCTION OF ''TIM FAGAN'S LAW''

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. ISRAEL. Mr. Speaker, I rise to introduce legislation that will make our Nation's prescription drugs safer by making it harder for counterfeit drugs to enter the distribution system and increasing penalties for those who try.

In 2002, a teenage constituent of mine, named Tim Fagan, learned first hand about the problem of counterfeit drugs in this country. He was recovering from a liver transplant, and was taking the drug Epogen, in order to fight his related anemia. His parents bought the Epogen from the local branch of reputable, nationwide pharmacy. In order to help her son, his mother dutifully injected the Epogen into his arm. After waking up in pain many nights in a row and not knowing why, the family received a telephone call. The Epogen that his mother had been injecting to help her son recover from a liver transplant was counterfeit.

It is imperative that Congress does everything they can to ensure this never happens again. The Epogen that Tim had taken was

the equivalent of a three-dollar bill. The medicine should have gone into the dumpster outside of the drug store, and not on the drug store shelf.

Tim is not the only victim of counterfeit drugs.

Counterfeit prescription drugs are becoming an increasingly severe problem in the United States. In the past three years, Lipitor, Procrit, Epogen, and Serostim have been recalled due to a prevalence of counterfeits. According to the Pharmaceutical Security Institute, the value of counterfeit, seized and diverted drugs in the United States was almost $200 million in 2003, seven times more than 2002. The World Health Organization has stated that worldwide, the counterfeit drug industry was worth about $32 billion in 2003.

Counterfeit drugs may contain inactive substances like water or saline. They may also be re-labeled to show they have a higher dosage than what is actually in the vial, which leads patients to take much less medicine than is required. They may also contain wrong ingredients or contaminants. Since people taking these counterfeited drugs are already sick, it is harder for fakes to be detected. Victims of counterfeiting may believe that they are just not getting better or the worsened symptoms are an effect of their illness and not counterfeited drugs.

There are many opportunities for counterfeiters to enter the American pharmaceutical distribution system. New York State Attorney General Eliot Spitzer recently subpoenaed the three largest wholesales, AmeriSourceBergen, McKesson, and Cardinal Health. However, there are about 12 large regional wholesalers and an estimated 6,500 smaller drug wholesalers.

More than half of all drugs go through this series of middlemen. The drugs go from the manufacturer to a large wholesaler, then through a number of smaller wholesalers, until finally making it to the local pharmacy. With prescription drugs repeatedly changing hands and the prospect of high profits, counterfeiters have the ability and the motive to interject these fake drugs into America's prescription drug distribution system.

My legislation aims to make it more difficult for counterfeiters to infiltrate the system. My bill calls for an audit trail of everyone's hands the drugs have been in, from manufacturer to pharmacy. It calls for the utilization of the best anti-counterfeiting technologies. It gives the FDA authority to recall drugs that may have been tampered with. It authorizes funds for spotchecking and education. Finally, it increases the criminal penalties for counterfeiters, including up to life in jail.

It is my hope that this Congress will address the issue of counterfeiting, and I am looking forward to working on a bipartisan basis to enact this legislation.

YOM HAATZMAUT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. MALONEY. Mr. Speaker, I rise to salute Israel as it celebrates the 57th anniversary of Yom HaAtzmaut, Independence Day. The Jewish nation rose from the ashes of World War II, and became a symbol of the survival of the Jewish people. Despite the genocidal actions of the Nazis, Jewish survivors of the Holocaust emigrated to Israel and dedicated themselves to transforming this desert region into a thriving nation.

Israel has never known a day of true peace. On May 14, 1948, the 5th of Iyar in the Hebrew calendar, the British Mandate expired and Israel declared its independence. That evening, the United States recognized the new nation. Less than 24 hours later, the regular armies of Egypt, Jordan, Syria, Lebanon and Iraq invaded Israel, forcing the fledgling state to fight for its survival. The War of Independence endured intermittently over the course of 15 months and claimed over 6,000 Israeli lives (nearly one percent of the country's Jewish population at the time). Since that time, Israel has fought to defend itself over and over again, in the 1956 War, the Six Day War, the Yom Kippur War, the Lebanon War and most recently, against two intifadas.

Reviled by its neighbors, Israel has nonetheless succeeded in becoming a vibrant democracy with one of the strongest economies in the Middle East. While it began as a poor agricultural nation, Israel has recently become a leader in technology research and development. Indeed, Israel's standard of living rivals that of any Western nation.

Mr. Speaker, on this day of Yom HaAtzmaut, I would like to recall the words spoken by Levi Eshkol, Prime Minister of Israel, at the end of the Six Day War: "We saw clearly that this is no mere ingathering of the exiles, but a new yet ancient nation, a united nation, which has been tempered in the furnace of one Israel, forged out of all our tribes and the remnants of scattered communities they, their sons and daughters. A nation has come into being which is ready for any effort or sacrifice in order to achieve its goals."

Mr. Speaker, I salute the people ofIsrael as they celebrate the 57th anniversary of the founding of their nation, and hope to join them in celebrating many more years of independence.

IN RECOGNITION OF NATIONAL POLICE WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CUMMINGS. Mr. Speaker, I rise today to pay tribute to our fallen heroes and to offer my heartfelt thanks to our brave men and women in blue.

Yesterday, sadly, was an eerily familiar day. Once again, fighter jets circled the bright blue sky and alarms echoed throughout the halls of Congress. As my colleagues and I rushed off the House floor, a police officer exclaimed, "This is not a test! Run!"

Mr. Speaker, there was fear in the officer's eyes, but there was bravery in her voice. This was the moment for which she had trained, and she was determined to shepherd us to safety. I thanked God, once again, for the commitment, courage and competence of the Capitol Police.

Mr. Speaker, it is all too fitting that this week is National Police Week. When an unidentified aircraft entered restricted air space yesterday, Members of Congress witnessed the efficiency and fearlessness of our police force first-hand. But it should not take an emergency for us to recognize those who risk their lives for our protection. It should not take a tragedy for us to say thank you.

Mr. Speaker, 415 names will be added to the National Law Enforcement Officers Memorial this week. I'd like to speak to you about one of the names that will be written on the Memorial, a name that many from my hometown of Baltimore hold in our hearts.

Almost exactly a year ago, Officer Brian D. Winder was killed in the line of duty as he responded to a 911 call. He was only 36. Mr. Speaker, you need only read the postings on Officer Winder's memorial website to know how much he meant to his wife, children, and fellow officers. In fact, if I may, I would like to read the posting written by Officer Winder's partner, LeTanye.

> Hey B., today starts a tough time for me and a lot of others who miss you. I have that task of making sure that your family makes it through all of the ceremonies that are upcoming in honor of Police Memorial Week. There have been so many times, recently, that I just wanted to give up being a peace officer because it has gotten so much more dangerous for us on the streets. The department is falling apart one by one. These are things that you and I spent countless times discussing. But now you are gone and it's hard. My sister was attacked the other day by an unknown male and I told myself that I had to continue this job. I have to continue to see that my family and yours are safe. I know that you would want me to do so. I just ask that you stay by my side and help me continue the fight, even when I feel that I can't do it anymore.

Mr. Speaker, LeTanye has reason to feel lonely and overwhelmed. The President, and yes, this Congress, have abandoned her. The President's budget slashed billions of dollars from essential law enforcement programs like COPS, a program that had added thousands of police officers to our most dangerous neighborhoods. Now law enforcement officers like LeTanye will have to shoulder even more of the burden of our collective safety.

So, I ask you, how many more partners will LeTanye lose as a result of these cutbacks? Deep cuts to the COPS, Byrne grants and HIDTA programs endanger their lives and hinder their ability to protect our communities. How can we say to her, we know it's hard, and it's going to get harder because we aren't willing to give you the support you need? How can we look Capitol Police Officers in the face, knowing they are willing to give their lives for our protection, while we pass legislation that endangers theirs.

Mr. Speaker, we should honor all of our law enforcement officers by giving them the resources they need to do their jobs well and safely. We must do more than etch one more name onto a memorial wall. We must speak truth to power by etching a legacy of respect, gratitude and priority funding into our fiscal policies for our nation's law enforcement forces.

Thank you. I yield back the balance of my time.

SUPPORTING GOALS AND IDEALS OF A ROTARY INTERNATIONAL DAY

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise in strong support of this resolution.

As the resolution notes, Rotary was founded in Chicago, Illinois, on 23 February 1905, and Rotarians now have set an example of a full century of service to their communities.

But Rotary is more than history. Today there are more than 400,000 Rotarians in the United States and more than 1.2 million Rotarians in over 32,000 clubs in 166 nations throughout the world—including 20 clubs in Colorado's 2nd Congressional District alone.

Rotarians provide tangible demonstrations of the power of their ideal and motto of ''Service Above Self'' by their efforts around the world toward elimination of diseases and the improvement of health as well as the provision of potable water and education for all. And over the years, through The Rotary Foundation, they have provided generously for undertakings that have improved the condition of people in all parts of the world.

In particular, Rotary International and its members have provided essential support toward the eradication of polio, measles, and other diseases, including donations of more than $600 million toward this cause, and have provided vaccines for immunizing over 2 billion children in the world. And in addition, Rotary Clubs annually provide tens of millions of dollars of local and global humanitarian support through grants, the services of Rotary Volunteers and matching grants.

In the field of education, Rotary Clubs collectively are among the largest private provider of scholarships in the history of the world, annually providing scholarships to tens of thousands of students. Also, Rotary International has sent over 200,000 students on Youth Exchange programs that foster understanding of people throughout the world as well as the development of leaders who go on to serve society. And Rotary International has provided $80 million to promote Group Study Exchanges of over 42,000 young adults for extended visits to other countries and to the United States where they learn, teach and create deep relationships, understanding and appreciation for different cultures.

So, it is very appropriate for Congress, through this resolution, to recognize Rotary International and Rotarians in every State and around the world as they commemorate and celebrate Rotary's centennial and to encourage them to work for even greater success in their second century of service.

TRIBUTE TO CALIFORNIA HIGHWAY PATROL OFFICER JAMES GOODMAN

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BACA. Mr. Speaker, it is with great respect that I pay tribute today to the life of California Highway Patrol Officer James Goodman, who was killed in the line of duty on June 3, 2004. Officer Goodman was a man of outstanding character and spirit who selflessly served the state of California.

Officer Goodman joined the California Highway Patrol in 1984. In 1989 he was the first to arrive on the scene when the Cypress Freeway collapsed during the Lorna Prieta Earthquake. With complete disregard for his own safety, he crawled through a tiny space to attempt to rescue a victim who was trapped in a truck that had been crushed. He received the Governor's Medal of Valor Award in 1991 for his heroic efforts that day.

Officer Goodman was killed when his motorcycle collided head-on with a minivan as he was pursuing a suspect involved in an earlier accident in San Bernardino, California. He had served honorably with the California Highway Patrol for 20 years.

Those who knew Officer Goodman remember him as a selfless man who loved his family and his work. He had a passion for riding motorcycles and for serving Californians. Officer Goodman was dedicated to protecting the people of California, and was willing to put his life on the line for the safety of others. He died honorably and will forever be remembered as a brave and courageous man.

CZECHS APPRECIATE AMERICAN SACRIFICES FOR LIBERATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. WILSON of South Carolina. Mr. Speaker, on Friday, I was honored to join Congressman JACK KINGSTON as he led a delegation for a wreath laying and dedication of a monument in Pilsen, Czech Republic, to the veterans of the U.S. Army who liberated Western Bohemia of Czechoslovakia in May 1945.

Czech President Vaclav Klaus presided with Prime Minister Jiri Paroubek and Pilsen Mayor Miroslav Kalous. The large double columns of the monument symbolizing Czech-American friendship were hailed by the U.S. Presidential delegation led by Veterans Administration Secretary Jim Nicholson. The American delegation was hosted by Ambassador William Cabaniss, a former Alabama State Senator, who delivered a letter from Congressman SPENCER BACHUS and Birmingham Rotarians to establish the city of Pilsen as the sister city of Birmingham, Alabama.

The impressive monument corrects a distortion of history, where former communist oppressors bizarrely claimed that Americans had not been present and that the liberators were Soviet troops in American uniforms. Fortunately, the long suppressed truth is now clearly marked, proudly proclaiming ''Thank You America'' for the U.S. Army in May 1945.

On April 29, 2005, prior to attending the festivities, Diane Brown presented me the following article written by her neighbor Jana Culik of Chapin, South Carolina. Her story is an inspiring personal account of heroism and appreciation of the United States by the Czech people who now live in a liberated democracy that enjoys membership in NATO and the EU.

AMERICAN FLAG

(By Jana Culik)

I think that the following little narrative should be shared—it is about an American flag made by my mother, Dagmar Pavlansky, in Czech Republic (former Czechoslovakia) in the spring of 1945 at the end of the Second World War.

I was a 6-year-old child at the time, and as such I could not be trusted enough to be part of my parent's decision concerning making flags—American, French, English and Soviet representing four allies that the Czech people hoped to welcome into their country. However, I remember that there was a shortage of almost everything, especially of any kind of cloth material and even thread sewing were not available. After the war, when I was older, my mother told me that she had to dye white bed sheets and go into the attic to rummage through old magazines and newspapers to find pictures of the flags. She had to work at night when my older sister and I were asleep—what she was doing was a crime, it was against the law of the occupants—the Nazis. I was told it was punishable by death.

Then there came May of 1945—the marvelous month when the war in Europe ended and my Czechoslovakia (near Pilsen at Blatna) was liberated by the American army. I will never forget the night when I was awakened by my smiling parents in company of three American soldiers. Our house was big enough to become the unofficial meeting place for the officers who were stationed in our little town. I remember my father, Judr. Jan Pavlansky, who was a good pianist, playing ''Happy days are here again'' and ''Roll out the barrels,'' and the soldiers teaching us to dance the boogie-woogie. All the soldiers were wonderful—friendly, helpful, and generous. My love for the American flag started during those times, and it has been a life long affair.

I am not sure what happened to the other flags my mother had made. Through the years of hardship when my country became a part of the Easter Europe (the unlucky countries ruled by the Soviet Regime) I was remembering the American one. The flag kept reminding the people behind the Iron Curtain that freedom and decency still existed in the world even if they could not enjoy it themselves in almost 40 years.

In August of 1968, when Czechoslovakia tried to free itself and wanted to become a democratic, self-ruled country again, it was overrun by Soviet tanks. My husband, Karel Culik, and I immigrated to Canada. It took 22 years before we could go back to visit Czechoslovakia. We went back in 1990 after the Soviet bloc in Europe collapsed. By then we had moved to the United States and were living in Chapin, South Carolina.

When I returned to Czechoslovakia, my first ''quest'' was to find the American flag of my childhood. Despite the fact that my family had to move from place to place, the flag had survived on the bottom of an old suitcase with other cherished mementos given to use by the American soldiers in 1945.

Nowadays the flag is here in Chapin. It is still one of my most treasured possessions. Through the years, I have become a collector of keepsakes related to special eras of my life. It seems that the American flag or at least the symbol of it has been present my whole life and it has now come full circle—in 1945, then later on, and especially now the American flag still stands for freedom.

God bless America!

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 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. BLUMENAUER. Mr. Chairman, I strongly believe that the United States should be doing more to reduce violent crimes, whether they are committed by gangs or individuals. I voted against the "Gang Deterrence and Community Protection Act of 2005" because it fails to address this problem and impairs our judicial system. H.R. 1279 increases penalties for non-violent crimes, while imposing mandatory minimum sentences and expanding the death penalty. These provisions do nothing to detour gang violence and limit judge's ability to impose sentences that fit the offense. Furthermore, the bill does not include early intervention programs or other preventative programs that could be successful in reducing gang violence. I am hopeful that Congress will work to pass legislation that addresses the core issues behind this serious problem.

WE MUST IMPROVE OUTCOMES FOR CHILDREN LEAVING FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, the circumstances described in the following report from Monday's National Public Radio program clearly indicates the urgent need to overhaul the child welfare system in order to improve outcomes for children aging out of foster care.

A recent study by Harvard Medical School and Casey Family Programs measured some of the aftereffects of foster care. That study concluded that fewer than 27 percent of foster youth who graduated high school went on to college as compared to 52 percent of the general population. And for those who do begin college, the dropout rate for foster youth is extremely high. More than eighty percent of all foster care youth who enroll in college will drop out before graduation.

In addition to lack of funds and the inability to access the limited federal and state funds that are available, foster youth suffer other unique disadvantages. While other students are concerned with academic pressures, foster care youth are worried about housing and being alone during holidays and breaks when dormitories are closed.

Next week I will propose legislation to address the shortcomings of the child welfare system by improving outcomes for children leaving foster care by awarding grants to colleges and universities to recruit foster care students; provide academic counseling; provide financial aid counseling; and provide other appropriate supportive educational services.

The article follows:

[From the Minnesota Public Radio, May 9, 2005]

FOSTER-CARE SYSTEM OFTEN ENDS UP HURTING THE KIDS IT WAS DESIGNED TO PROTECT

(By Hilary Wicai)

May is National Foster Care Month. The foster-care system was created to care for children who are abused or neglected or whose parents can't care for them, but a recent study of former foster-care kids finds many end up hurt by the system that was supposed to protect them, and once they turn 18, they're on their own, often without the skills they need to fend for themselves. The damage takes both an emotional and an economic toll as MARKETPLACE's Hilary Wicai reports from the work and family desk.

Jessica Lindsay was 14 when a couple of police officers pulled her out of class.

Ms. JESSICA LINDSAY (Former Foster Child): My mother is—she's a schizophrenic, and she's been that way my whole life.

WICAI: Jessica and her mother had a bad fight the day before and the police told Jessica she couldn't go home again ever.

Ms. LINDSAY: 'Well, why can't I go home?' 'Well, your mother threatened to kill you, so we have to remove you from the home.'

WICAI: That began Jessica's three-year journey through three social workers, two foster families, four group homes and four high schools. Moving around a lot is part of the system. If kids are in care for four years or more, 37 moves are the median.

Ms. MARIAN HERRICK (Former Foster Child): I mean, I have another friend who's lived in over 45 homes when she was in foster care. Yeah.

WICAI: Marian Herrick spent seven years in foster care after her dad went to prison. Herrick says many don't know what foster children go through because they learn not to tell their stories. Her best friend in middle school taught her that.

Ms. HERRICK: Her mom told her that she needed to find a normal friend because I was in foster care. So it's like there's definitely that stigma. Just answering the most basic questions are difficult, like, 'Where are you from?' 'Well, I'm not really from any one city.'

WICAI: Foster children aren't from any one city in large part because the system is out of balance. There are only about a hundred thousand foster families for 600,000 children in care. That's why many, especially teen-agers like Jessica Lindsay, end up in group homes where they're looked after by low-wage shift workers. Care in a group home can cost taxpayers nearly 10 times more than family foster care. At one group home, Jessica had trouble sleeping. The doctor put her on sleeping pills which made her sleep through class but she took them.

Ms. LINDSAY: If you don't comply with what they tell you to do, you can't get any of your rewards that you're supposed to get, like going outside. They reward you for good behavior, but you're not a criminal. You're here because something happened to you, not because you did something.

WICAI: A recent study showed post-traumatic stress disorder rates among foster-care alumni are almost twice as high as in US veterans of war. The study by Harvard Medical School and Casey Family Programs measured some of the aftereffects of foster care. Ruth Massinga is president of Casey. She says the picture is grim for young adults now out of care.

Ms. RUTH MASSINGA (President, Casey Family Programs): Only 80 percent of the study participants were employed as compared to 95 percent of the general population. One-third of the participants had incomes at or below the poverty level. One-third had no health insurance, and nearly a quarter had experienced homelessness after leaving foster care.

Mr. GARY STANGLER (Co-author, "On Their Own"): At 18, we say, 'Happy birthday. You're on your own.'

WICAI: Gary Stangler used to run Missouri's foster-care system. He recently co-authored a book called "On Their Own."

Mr. STANGLER: There are literally places in the country where young people are emancipated from foster care and they are delivered to a homeless shelter.

WICAI: He says there's nothing magic about turning 18 if you're undereducated, lack job skills and have nowhere to go. He says as they're shuffled around, many foster kids don't learn anything about paying bills, finding an apartment, filing taxes, even tying a tie for a job interview. Now 19, Jessica Lindsay has her own apartment in Michigan but only after a couple of false starts with college and financial aid.

Ms. LINDSAY: This is what I needed and this is what I got, and now look at what I have to deal with.

WICAI: So she works full time, seeing that other foster youth get a better start.

Unidentified Woman: Clap once if you can hear me!

WICAI: She was recently accepted to the Child Welfare League of America's National Foster Youth Advisory Council. The group advocates and lobbies for better foster-care policies.

Unidentified Woman: . . . worked so hard we've already put in a seven-hour day with . . .

WICAI: This month, they met in Washington, DC, to discuss how to promote the idea of more permanent placements for foster children. With groups like this behind her, Jessica is more hopeful that her third attempt at college will be more successful. Jessica's goal is to graduate. That would help increase the number of foster-care alumni with bachelor's degrees. Right now, it's only 2 percent.

IN RECOGNITION OF NATIONAL POLICE WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CUMMINGS. Mr. Speaker, I rise today to pay tribute to our fallen heroes and to offer my heartfelt thanks to our brave men and women in blue.

Yesterday, sadly, was an eerily familiar day. Once again, fighter jets circled the bright blue sky and alarms echoed throughout the halls of Congress. As my colleagues and I rushed off the House floor, a police officer exclaimed, "This is not a test! Run!"

Mr. Speaker, there was fear in the officer's eyes, but there was bravery in her voice. This was the moment for which she had trained, and she was determined to shepherd us to safety. I thanked God, once again, for the commitment, courage and competence of the Capitol Police.

Mr. Speaker, it is all too fitting that this week is National Police Week. When an unidentified aircraft entered restricted air space yesterday, Members of Congress witnessed the efficiency and fearlessness of our police force first-hand.

But it should not take an emergency for us to recognize those who risk their lives for our protection. It should not take a tragedy for us to say thank you.

Mr. Speaker, 415 names will be added to the National Law Enforcement Officers Memorial this week. I'd like to speak to you about one of the names that will be written on the Memorial, a name that many from my hometown of Baltimore hold in our hearts.

Almost exactly a year ago, Officer Brian D. Winder was killed in the line of duty as he responded to a 911 call. He was only 36. Mr. Speaker, you need only read the postings on Officer Winder's memorial website to know how much he meant to his wife, children, and fellow officers. In fact, if I may, I would like to read the posting written by Officer Winder's partner, LeTanye.

Hey B., today starts a tough time for me and a lot of others who miss you. I have that task of making sure that your family makes it through all of the ceremonies that are upcoming in honor of Police Memorial Week. There have been so many times, recently, that I just wanted to give up being a peace officer because it has gotten so much more dangerous for us on the streets. The department is falling apart one by one. These are things that you and I spent countless times discussing. But now you are gone and it's hard. My sister was attacked the other day by an unknown male and I told myself that I had to continue this job. I have to continue to see that my family and yours are safe. I know that you would want me to do so. I just ask that you stay by my side and help me continue the fight, even when I feel that I can't do it anymore.

Mr. Speaker, LeTanye has reason to feel lonely and overwhelmed. The President, and yes, this Congress, have abandoned her. The President's budget slashed billions of dollars from essential law enforcement programs like COPS, a program that had added thousands of police officers to our most dangerous neighborhoods. Now law enforcement officers like LeTanye will have to shoulder even more of the burden of our collective safety.

So, I ask you, how many more partners will LeTanye lose as a result of these cutbacks? Deep cuts to the COPS, Byrne grants and HIDTA programs endanger their lives and hinder their ability to protect our communities. How can we say to her, we know it's hard, and it's going to get harder because we aren't willing to give you the support you need? How can we look Capitol Police Officers in the face, knowing they are willing to give their lives for our protection, while we pass legislation that endangers theirs.

Mr. Speaker, we should honor all of our law enforcement officers by giving them the resources they need to do their jobs well and safely. We must do more than etch one more name onto a memorial wall. We must speak truth to power by etching a legacy of respect, gratitude and priority funding into our fiscal policies for our nation's law enforcement forces.

HONORING THE MEMORY OF MR. HUGH THOMAS PRAYTOR, JR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BONNER. Mr. Speaker, Mobile County and indeed the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory. Mr. Hugh Thomas Praytor, Jr., known as Tommy to his many friends, was a devoted family man and dedicated community leader throughout his life.

A native and lifelong resident of Mobile, Alabama, Tommy Praytor was a graduate of the University of Southern Mississippi and worked as a banker for 48 years. His first job, as a part-time counter at the old Merchants National Bank in Mobile, began during summer breaks during his time in college. Following his graduation, he took a full-time position at Merchants and worked in the bank's computer department. He continued his career with the bank after it became Regions Bank, and spent many years at the end of his career specializing in private lending and in bond issues for municipalities seeking infrastructure and other community improvements.

Even with his numerous professional obligations, Tommy also found time to involve himself in several Mobile community organizations. During his lifetime, he served as a group chairman for Alabama Young Bankers and was treasurer of the Mobile Big Game Fishing Club. Additionally, he served on or was affiliated with the Senior Bowl Committee, the Mobile Sports Hall of Fame, the Alabama Deep Sea Fishing Rodeo, the Mobile Bass Master Club, and several Mardi Gras mystic organizations. He was also a longtime member of All Saints Episcopal Church in Mobile and spent several years as both a Sunday school teacher and a member of the church vestry.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout south Alabama. Tommy Prayter, Jr., loved life and lived it to the fullest, and his passing marks both a loss for all of south Alabama and a personal loss for me. I was fortunate to call him my friend, and he will be deeply missed by one and all, most especially his family—his wonderful wife of 46 years, Jamie Catlin Praytor, his sons, Hugh Thomas Praytor, III, and Wilson Wrath Praytor, his daughter, Ellen Praytor Wingard, his sister, Carolyn Praytor Smith, and four grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

RECOGNIZING DAMION DEROBBIO

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. RYAN of Ohio. Mr. Speaker, I rise today in recognition of Damion DeRobbio, whose heroics in the face of a neighbor's house fire saved the life of a 6-year-old girl.

On April 22 of last year, Mr. DeRobbio rushed to the aid of a frantic mother, whose daughter, Mackenzie, was trapped in her bed, blinded and suffocated by smoke. After several attempts to get into the burning house failed, Mr. DeRobbio persevered, smashing the little girl's bedroom window and squeezing through the tiny opening. Mr. DeRobbio crawled over the shards of broken glass, sustaining cuts on his knees and shoulders, and seized Mackenzie from her bed. He then passed her through the window to a waiting police officer before climbing out himself.

For his actions, Mr. DeRobbio was awarded the Carnegie Medal by the Carnegie Hero Fund Commission, and deservedly so. However, recognition was certainly not what motivated this hero on that night more than a year ago. Were it not for Mr. DeRobbio's selfless bravery, this inspiring story could have easily been one of tragedy and loss.

So today, on behalf of all of his neighbors in Ohio's 17th District, I honor Mr. DeRobbio for his valor.

IN MEMORY AND HONOR OF MIGUEL CONTRERAS

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to mourn the death and celebrate the life of Miguel Contreras, who died last Friday at the age of 52.

As the leader of the Los Angeles County Federation of Labor AFL–CIO, Miguel was a powerful figure in the labor movement.

Miguel spearheaded the effort to get a new contract for janitors in 2000. In the same year, he negotiated a key deal for Metropolitan Transit workers.

He was deeply involved in politics at many levels. There are few politicians in Los Angeles who didn't have to work with him.

And yet, Miguel was a workers' leader, with his focus keenly on the workers he represented and their best interest.

Maybe that's because Miguel had been there himself. He was the son of farmworkers, and he himself started working in the fields at the age of 5. In a way, Miguel never left the field. He carried the struggle with him from the fields of the grape boycott, working with Cesar Chavez, to the streets, rails and hotels of Los Angeles.

The labor movement has lost one of its great leaders. We have lost a great American. And we have lost one of our great friends.

Our hearts go out to Miguel's family, to his wife Maria Elena, and his sons Michael and Mario.

RURAL DISASTER ASSISTANCE FAIRNESS ACT OF 2005

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. CUBIN. Mr. Speaker, in the dark of night on August 27, 2002, the town of Kaycee, Wyoming was overwhelmed by a 4-foot surge of water from the Powder River caused by a severe rainstorm—pouring down 2/3 of the town's annual rainfall within a 6-hour period. The damage was disastrous, over 80 percent of Kaycee's businesses and one-third of their residences were damaged or destroyed. But despite Kaycee's massive loss—one that would have cost billions had Manhattan, Los Angeles or Chicago lost 80 percent of their businesses—there was no disaster declaration.

This flood effectively erased the community of Kaycee, and it's absolutely preposterous

that damage of this magnitude does not qualify as a disaster. A comparable disaster in Washington, D.C. would have destroyed 96,196 homes and 15,575 businesses. Washington, D.C. would not function after such a catastrophe and neither can Kaycee, Wyoming. In fact, under today's criteria, a majority of Wyoming's communities could be destroyed without receiving a disaster designation, as Kaycee has shown. Rural America needs help and that's why I am introducing the Rural Disaster Assistance Fairness Act of 2005.

My bill will create a Small State Advocate who will participate in the disaster declaration process, assist small States in disaster declaration requests, and ensure the needs of rural communities are being addressed. Additionally, it would require the Department of Homeland Security to report to Congress regarding whether current regulations addressing small state disaster declarations are meeting the needs of states with populations of less than one million, and whether current disaster regulations are in compliance with statutory restrictions regarding arithmetic formulas and sliding scales.

This is an important bill and I urge my colleagues to join me in updating the laws and regulations that treat many rural States unfairly compared to their larger neighbors.

ON THE OCCASION OF ISRAEL INDEPENDENCE DAY

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. ROTHMAN. Mr. Speaker, I rise today to commemorate Israel Independence Day, the anniversary of the founding of the State of Israel. Forged from the fire of conflict that raged through 3 continents in the mid-twentieth century, the State of Israel has survived and endured the cauldron of the Middle East to emerge as a strong and vibrant democracy—the only one of its kind in the region—with the resilient strength of tempered steel.

Israel was indeed born in a turbulent time and place in world history. Fifty-seven years ago from Saturday, the great Zionist leader David Ben-Gurion, proclaimed the birth of the State of Israel. The very next day, a mere 11 minutes after the official expiration of the British Mandate in Palestine, President Harry S. Truman announced the official recognition by the United States of the State of Israel. The bonds between our nation and Israel have endured throughout the history of the Zionist state, and today are stronger than ever.

Nothing, however, has come easily for the State of Israel. On the very day that President Truman made his historic announcement, 5 Arab states attacked Israel. The initial public radio address by the first Israeli Prime Minister, David Ben-Gurion, was made from an air-raid shelter in Tel Aviv, whose skies were darkened that very day by bombs dropped from Egyptian aircraft.

Yet despite all the odds, despite a history of being outnumbered and surrounded by hostile nations, the people and the State of Israel—which, geographically speaking, is slightly smaller than my own state of New Jersey—have endured, and thrived. Although Israel still faces tremendous challenges today to the security of its citizenry and its borders, the indomitable spirit that guided the pioneers of a new nation remains a source of powerful inspiration and an enduring legacy to the Israeli people.

My distinguished colleagues, I ask that you join me in recognizing the remarkable human achievement that is the State of Israel. As the representatives of a freedom-loving nation, we are proud to celebrate the anniversary of the birth of the State of Israel and its success as a beacon of democracy to all people.

CONGRATULATING WKRG–TV FOR FIFTY YEARS OF BROADCAST SERVICE

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor the management and staff of WKRG–TV 5 in Mobile, Alabama, on the celebration of its 50th Anniversary of broadcast service.

WKRG was founded by Kenneth R. Giddens, a Mobile-area architect, in 1955, and the station's first broadcast was sent out on September 5 of that year. The station was sold 43 years later to Spartan Communications, and in 2000 it was sold once again to Media General of Richmond, Virginia. At present, the Media General group is one of the most successful communications companies in the Southeastern United States, with holdings in over 150 newspapers, television stations, and other media.

Throughout its 50-year history, WKRG has been on the cutting edge of providing the newest in television news, educational, and informational program, and has consistently been one of the top stations on Alabama's Gulf Coast. From its early years, the station has strived to be a leading source of news and entertainment in south Alabama, and it has demonstrated a strong capability of making rapid adjustments to keep pace with changing broadcast trends. Beginning with such program as I Love Lucy, The Andy Griffith Show, and The Ed Sullivan Show, WKRG early on set a standard for good, family-oriented programming. At one time, station management also ensured that there was programming geared for the young people in the viewing audience and aired such child-friendly shows as Rosie's Place and Small Fry News. The station has continued its quality programming through the past 50 years to the present day.

To their credit, station management has also set a priority on providing the most up to the minute news with a total of nearly 6 hours of local news each weekday, with news programs at 5:30 and 9:00 a.m. as well as 12:00, 5:00, 6:00, and 10:00 p.m. The station news team has also performed in an outstanding manner, even in the most difficult of circumstances; in fact, WKRG was able to continue broadcasting important safety and weather information during Hurricane Frederic in 1979 and Hurricane Georges in 1998. During the period of time surrounding the arrival and landfall of Hurricane Ivan on the Gulf Coast in September, 2004, the station did around-the-clock live broadcasts for an astonishing 120 hours.

WKRG has also been consistently dedicated to providing the best in public affairs programming for its viewing audience. Since 1973, the station has carried "Congressional Report," a weekly program covering important issues and news from Washington, D.C. Beginning with original hosts and former Representatives TRENT LOTT, Jack Edwards, and Bob Sikes, the program has evolved into one of the leading congressional and public affairs shows in the nation and has the distinction of being the longest continually-running program of its type in the United States. It is chiefly as a result of the hard work of the management of WKRG and their desire to provide the best in public affairs and community service programming that this program has become so successful during its three decade history.

Mr. Speaker, one of the most important services which can be provided for the American people is an effective and efficient television broadcast organization. For the past 5 decades, WKRG in Mobile has provided just such an important and invaluable service to the residents of Alabama's First District and throughout the Gulf Coast region. I ask my colleagues to join with me in congratulating Mr. Joe Goleniowski, Vice President and General Manager of WKRG, and his entire team on 50 years of excellence.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S5007–S5185

Measures Introduced: Twenty-six bills and seven resolutions were introduced, as follows: S. 1008–1033, S. Res. 136–141, and S. Con. Res. 32. **Pages S5070–71**

Measures Reported:

S. 536, to make technical corrections to laws relating to Native Americans. (S. Rept. No. 109–67) **Page S5070**

Measures Passed:

National Drug Court Month: Senate agreed to S. Res. 136, designating the month of May 2005 as ''National Drug Court Month''. **Page S5181**

National Child Care Worthy Wage Day: Senate agreed to S. Res. 137, designating May 1, 2005, as ''National Child Care Worthy Wage Day''. **Pages S5181–82**

National Day of the American Cowboy: Senate agreed to S. Res. 138, designating July 23, 2005 as ''National Day of the American Cowboy''. **Page S5182**

Russian Troop Withdrawal: Senate agreed to S. Res. 139, expressing support for the withdrawal of Russian troops from Georgia. **Pages S5182–83**

Greater Washington Soap Box Derby: Senate agreed to H. Con. Res. 86, authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby. **Page S5183**

Special Olympics Law Enforcement Torch Run: Senate agreed to H. Con. Res. 135, authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run. **Page S5183**

National Peace Officers Memorial Service: Senate agreed to H. Con. Res. 136, authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service. **Page S5183**

National Fetal Alcohol Spectrum Disorders Awareness Day: Senate agreed to S. Res. 141, designating September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''. **Pages S5183–84**

Transportation Equity Act: Senate continued consideration of H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, taking action on the following amendments proposed thereto: **Pages S5014–62**

Adopted:

Inhofe (for Dole/Burr) Amendment No. 574 (to Amendment No. 605), to allow States to own the entire interest of a real estate investment trust without tax consequences in order to assist the State in preserving its railroad infrastructure. **Page S5019**

Inhofe (for Lieberman) Amendment No. 598 (to Amendment No. 605), to provide a 90 percent Federal match for bridge projects on the Interstate Highway System. **Page S5019**

Inhofe (for Murray) Modified Amendment No. 624 (to Amendment No. 605), to provide for a comprehensive study of the damages to the Alaska Way Viaduct from the Nisqually earthquake to determine whether to repair, retrofit, or replace the Viaduct and whether emergency relief funding should be made available for the Viaduct. **Page S5019**

Inhofe (for Clinton) Amendment No. 628 (to Amendment No. 605), to reestablish the University of Buffalo as an appropriate research center for research on the impact of seismic activity on the Federal-aid highway system. **Page S5019**

Inhofe (for Dayton) Modified Amendment No. 634 (to Amendment No. 605), to raise consumer awareness of ethanol-fueled vehicles. **Pages S5019–20**

Inhofe (for Conrad/Dorgan) Amendment No. 643 (to Amendment No. 605), to establish the Federal share of the cost of constructing a bridge in the State of North Dakota. **Page S5020**

Inhofe (for Obama) Modified Amendment No. 670 (to Amendment No. 605), to provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions. **Pages S5020, S5025–28**

Inhofe (for Clinton/Inhofe) Modified Amendment No. 681 (to Amendment No. 605), to modify provisions relating to the congestion and air quality improvement program. **Pages S5020–21**

Inhofe (for Landrieu) Amendment No. 621 (to Amendment No. 605), to provide for the conduct of a community enhancement study. **Page S5021**

Inhofe (for Landrieu) Amendment No. 622 (to Amendment No. 605), to provide for the development of a comprehensive coastal evacuation plan. **Pages S5021–22**

Inhofe (for Specter) Modified Amendment No. 666 (to Amendment No. 605), to improve the high-speed magnetic levitation system deployment program. **Pages S5022–23**

Inhofe (for Stevens) Amendment No. 685 (to Amendment No. 605), to increase an amount made available for the Alaska Highway System. **Page S5023**

Inhofe (for Salazar) Amendment No. 694 (to Amendment No. 605), to provide for an off-system bridges pilot program. **Page S5023**

Inhofe (for Snowe) Modified Amendment No. 705 (to Amendment No. 605), to allow the State of Maine to use certain transportations funds made available to the State to support the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine. **Page S5023**

Inhofe (for Santorum) Modified Amendment No. 708 (to Amendment No. 605), to provide for the reobligation and use of excess project funds and funds for projects that are inactive. **Page S5023**

Inhofe (for Baucus) Modified Amendment No. 713 (to Amendment No. 605), to provide funds for the State of Montana for the operation of public transit activities that serve a non-attainment or maintenance area. **Page S5023**

Inhofe Amendment No. 737 (to Amendment No. 605), to make certain revisions relating to alternative methods to improve the accessibility of public transportation for persons with visual disabilities, tax-free transit benefits, authority to use government vehicles to transport Federal employees, and projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats. **Pages S5023–24**

Inhofe (for Santorum/Specter) Amendment No. 725 (to Amendment No. 605), to provide for the construction of improvements to streets and roads providing access to State Route 28 in the State of Pennsylvania. **Page S5024**

Inhofe (for Levin/Stabenow) Amendment No. 755 (to Amendment No. 725), to reprogram funds made available for Interstate Route 75 and North Down River Road, Michigan. **Page S5025**

Inhofe Modified Amendment No. 726 (to Amendment No. 605), to establish a program to award grants on a competitive basis to eligible recipients for the replacement or retrofit of certain existing school buses. **Pages S5024–25**

Nelson (FL) (for Feingold) Amendment No. 610 (to Amendment No. 605), to improve the accuracy and efficacy of identity authentication systems and ensure privacy and security. **Page S5014**

Inhofe (for Chambliss/Isakson) Modified Amendment No. 569 (to Amendment No. 605), to provide that certain funds shall be appropriated to the Department of Transportation to carry out studies and reports relating to projects in the State of Georgia. **Pages S5045–46**

Inhofe (for Cornyn) Modified Amendment No. 662 (to Amendment No. 605), to strike section 1802(c) relating to contractor suspension and debarment policy. **Pages S5046–54**

Pending:

Inhofe Amendment No. 605, to provide a complete substitute. **Page S5014**

Dorgan Amendment No. 652 (to Amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices. **Page S5014**

Inhofe (for Ensign) Amendment No. 636 (to Amendment No. 605), to authorize the State of Nevada to continue construction of the US–95 Project in Las Vegas, Nevada. **Pages S5015–18**

Allen/Ensign Amendment No. 611 (to Amendment No. 605), to modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code. **Pages S5054–59**

Schumer Amendment No. 674 (to Amendment No. 605), to increase the transit pass and van pooling benefit to $200. **Page S5059**

Sessions Modified Amendment No. 646 (to Amendment No. 605), to reduce funding for certain programs. **Page S5059**

During consideration of this measure today, Senate also took the following action:

By 92 yeas to 7 nays (Vote No. 122), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on Inhofe Amendment No. 605 (listed above). **Page S5026**

Chair sustained a point of order that Byrd Amendment No. 635 (to Amendment No. 605), to amend the Internal Revenue Code of 1986 to allow a credit for rural commuters, was not germane, and the amendment thus fell. **Pages S5028–45**

A unanimous-consent agreement was reached providing for a list of amendments to be the only remaining first-degree amendments, other than a managers' amendment to be cleared by both managers and both leaders; provided further, that they be subject to second-degree amendments that have been

filed in accordance with Rule 22; that any amendment from the list must be offered by 4 p.m. on Monday, May 16; provided further, that when the Senate resumes consideration of the bill on Tuesday, May 17, all time be expired under Rule 22 and the Senate proceed to votes in relation to the pending amendments in the order offered; the Senate then proceed to a vote on Inhofe substitute Amendment No. 605, as amended, that the cloture vote on the underlying bill be vitiated, and the Senate then proceed to a vote on passage of the bill. **Page S5055**

A unanimous-consent agreement was reached providing for further consideration of the bill at 10 a.m. on Friday, May 13, 2005. **Page S5184**

Nominations Confirmed: Senate confirmed the following nominations:

John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army. **Page S5185**

Nominations Discharged: The following nominations were discharged from further committee consideration and placed on the Executive Calendar:

Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development, which was sent to the Senate on January 24, 2005, from the Senate Committee on Agriculture, Nutrition, and Forestry.

Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation, which was sent to the Senate on January 24, 2005, from the Senate Committee on Agriculture, Nutrition, and Forestry. **Page S5181**

Messages From the House: **Page S5069**

Measures Referred: **Page S5069**

Executive Communications: **Pages S5069–70**

Executive Reports of Committees: **Page S5070**

Additional Cosponsors: **Pages S5071–73**

Statements on Introduced Bills/Resolutions: **Pages S5073–S5173**

Additional Statements: **Pages S5067–69**

Amendments Submitted: **Pages S5173–80**

Authority for Committees to Meet: **Pages S5180–81**

Privilege of the Floor: **Page S5181**

Record Votes: One record vote was taken today. (Total—122) **Page S5026**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 8:40 p.m. until 10 a.m., on Friday, May 13, 2005. (For Senate's program, see the remarks of the Majority Leader in today's Record on pages S5184–85.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: AMTRAK

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 National Railroad Passenger Corporation (Amtrak), after receiving testimony from David L. Gunn, President and Chief Executive Officer, and David M. Laney, Chairman of the Board of Directors, both of Amtrak; and Jeffrey A. Rosen, General Counsel, and Kenneth M. Mead, Inspector General, both of the Department of Transportation.

APPROPRIATIONS: NASA

Committee on Appropriations: Subcommittee on Commerce, Justice, and Science, concluded a hearing to examine proposed budget estimates for fiscal year 2006 for the National Aeronautics and Space Administration, after receiving testimony from Michael D. Griffin, Administrator, National Aeronautics and Space Administration.

APPROPRIATIONS: DEPARTMENT OF STATE

Committee on Appropriations: Subcommittee on State, Foreign Operations, and Related Programs concluded a hearing to examine proposed budget estimates for fiscal year 2006 for the Department of State and Foreign Operations, after receiving testimony from Condoleezza Rice, Secretary of State.

AUTHORIZATION—NATIONAL DEFENSE

Committee on Armed Services: Committee ordered favorably reported the following bills: An original bill entitled "National Defense Authorization Act for Fiscal Year 2006"; An original bill entitled "Department of Defense Authorization Act for Fiscal Year 2006"; An original bill entitled "Military Construction Authorization Act for Fiscal Year 2006"; and An original bill entitled "Department of Energy National Security Act for Fiscal Year 2006".

TRUTH IN BROADCASTING ACT

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine S. 967, to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, after receiving testimony from Jonathan S. Adelstein, Commissioner, and Austin C. Schlick,

Acting General Counsel, both of the Federal Communications Commission; Susan A. Poling, Managing Associate General Counsel, Government Accountability Office; Barbara Cochran, Radio-Television News Directors Association, Washington, D.C.; Douglas Simon, D S Simon Productions, Inc., New York, New York; and Judith T. Phair, Public Relations Society of America, Laurel, Maryland.

NOMINATION

Committee on Foreign Relations: Committee ordered reported, without recommendation, the nominations of John Robert Bolton, of Maryland, to be the U.S. Representative to the United Nations, with the rank and status of Ambassador, and the U.S. Representative in the Security Council of the United Nations, and to be U.S. Representative to the Sessions of the General Assembly of the United Nations during his tenure of service as U.S. Representative to the United Nations.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

Also, Committee resumed its markup of S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, but did not complete action thereon, and recessed subject to the call.

NOMINATIONS

Committee on the Judiciary: Committee concluded a hearing to examine the nominations of Rachel Brand, of Iowa, who was introduced by Senators Grassley and Harkin, Alice S. Fisher, of Virginia, who was introduced by Senator McConnell, and Regina B. Schofield, of Virginia, who was introduced by Senators Cochran and Lott, each to be an Assistant Attorney General, Department of Justice, after the nominees testified and answered questions in their own behalf.

VETERANS LONG TERM CARE

Committee on Veterans' Affairs: Committee concluded a hearing to examine issues relating to the planning, providing, and paying for veterans' long-term care services, after receiving testimony from Jonathan B. Perlin, Under Secretary of Veterans Affairs for Health; Lourdes E. Alvarado-Ramos, Washington State Department of Veterans Affairs, Seattle, on behalf of the National Association of State Veterans Homes; and Joshua M. Wiener, RTI International, Fred Cowell, Paralyzed Veterans of America, and Donald L. Mooney, The American Legion, all of Washington, D.C.

HIV/AIDS

Special Committee on Aging: Committee concluded a hearing to examine the threat of HIV affecting people over fifty, focusing on U.S. HIV/AIDS trends, specifically among persons 50 years and older, and the Centers for Disease Control and Prevention efforts for people in this age group who are at high risk for acquiring and transmitting HIV, after receiving testimony from Robert S. Janssen, Director, Division of HIV/AIDS Prevention, National Center for Infectious Diseases, Coordinating Center for Infectious Diseases, Centers for Disease Control and Prevention, Department of Health and Human Services; Thomas Bruner, Cascade AIDS Project, Portland, Oregon; Jeanine M. Reilly, Broadway House for Continuing Care, Newark, New Jersey; and Shirley Royster, Boston, Massachusetts.

House of Representatives

Measures Introduced: 43 public bills, H.R. 2317–2359; and 6 resolutions, H.J. Res. 49–50; H. Con. Res. 151; and H. Res. 275–277 were introduced. **Pages H3259–62**

Additional Cosponsors: **Pages H3262–63**

Reports Filed: Reports were filed today as follows:

Report on the Suballocation of Budget Allocations for Fiscal Year 2006 (H. Rept. 109–78). **Page H3259**

Faster and Smarter Funding for First Responders Act of 2005: The House passed H.R. 1544 to provide faster and smarter funding for first responders, by a recorded vote: 409–10 (Roll no. 170). **Pages H3204–37**

Agreed that the amendment in the nature of a substitute recommended by the Committee on Homeland Security now printed in the bill be considered as an original bill for the purpose of amendment. **Page H3236**

Accepted:

Berry amendment numbered 1 printed in House Report 109–77 that adds the Administrator of Animal and Plant Health Inspection Service to the First Responder Grants Board; **Pages H3228–29**

Berry amendment numbered 2 printed in House Report 109–77 that requires the Department of Homeland Security to coordinate with State, local, and tribal governments in establishing criteria for prioritizing applications for first responder grants; **Pages H3229–30**

Bass amendment numbered 3 printed in House Report 109–77 that allow states to petition the Secretary of Homeland Security to use Federal homeland security funds for the cost of any activity relating to prevention of, preparation for, response to, or recovery from acts of terrorism, that would otherwise be a Federal duty performed by Federal agencies and under agreement with the State or local government and a Federal agency; and **Pages H3230–31**

Castle amendment numbered 5 printed in House Report 109–77 that better equips and protects our communities' firefighters and encourage donations by raising the liability standard for donors of fire fighting equipment from negligence to gross negligence. **Page H3234**

Rejected:

Weiner amendment numbered 4 printed in House Report 109–77 that sought to limit the number of Urban Area Security Initiative grants during any given fiscal year to 50, by a recorded vote: 88–331 (Roll no. 169). **Pages H3231–36**

H. Res. 269, the rule providing for consideration of the bill was agreed to by voice vote. **Page H3604**

Late Reports: Agreed that the Committee on Appropriations have until midnight on May 13 to file late reports on legislation making appropriations for the Department of Homeland Security for the fiscal year 2006 and on legislation making appropriations for the Department of the Interior for fiscal year 2006. **Page H3237**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday, May 16, 2005, for Morning-Hour Debates. **Page H3238**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, May 18. **Page H3238**

Reception of Former Members of Congress: Agreed that the House will meet at 9 a.m. on Thursday, May 19, 2005, for the purpose of receiving in the Chamber Former Members of Congress, and that the Speaker may declare a recess subject to the call of the Chair for such a purpose. **Page H3238**

Board of Visitors to the United States Naval Academy—Appointment: The Chair announced the Speaker's appointment of Representatives Cunningham of California and Wicker of Mississippi to the Board of Visitors to the United States Naval Academy. **Page H3239**

Board of Trustees of the Harry S Truman Scholarship Foundation—Appointment: The Chair announced the Speaker's appointment of Representatives Akin of Missouri and Skelton of Missouri to the Board of Trustees of the Harry S Truman Scholarship Foundation. **Page H3239**

Congressional-Executive Commission on the People's Republic of China: The Chair announced the Speaker's appointment of the following members to the Congressional-Executive Commission on the People's Republic of China: Representatives Leach (co-Chair), Dreier, Wolf, Pitts, and Aderholt. **Pages H3249–50**

Quorum Calls—Votes: Two recorded votes developed during the proceedings of the House today and appear on pages H3236, H3236–37. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 5:57 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 Saint Lawrence Seaway. Testimony was heard from Albert S. Jacquez, Administrator, Saint Lawrence Seaway Development Corporation, Department of Transportation.

ENERGY AND WATER DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development, and Related Agencies approved for full Committee action the Energy and Water Development, and Related Agencies appropriations for Fiscal Year 2006.

MILITARY QUALITY OF LIFE, AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Quality of Life, and Veterans Affairs, and Related Agencies approved for full Committee action the Military Quality of Life, and Veterans Affairs, and Related Agencies appropriations for Fiscal Year 2006.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Armed Services: Subcommittee on Readiness approved for full Committee action, as amended, H.R. 1815, National Defense Authorization Act for Fiscal Year 2006, 9 a.m., 2118 Rayburn.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Armed Services: Subcommittee on Strategic Forces approved for full Committee action, as amended, H.R. 1815, National Defense Authorization Act for Fiscal Year 2006.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Armed Services: Subcommittee on Tactical and Land Forces approved for full Committee action H.R. 1815, National Defense Authorization Act for Fiscal Year 2006.

OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing entitled "Examining Voluntary Compliance Programs that Improve Occupational Safety and Health. Testimony was heard from Jon Turnipseed, Safety Program Manager, Municipal Water Department, San Bernadino, California; and public witnesses.

SPECIALTY HOSPITALS

Committee on Energy and Commerce: Subcommittee on Health held a hearing entitled "Specialty Hospitals: Assessing Their Role in the Delivery of Quality Health Care." Testimony was heard from Mark B. McClellan, M.D., Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services; Glenn M. Hackbarth, Chairman, Medicare Payment Advisory Commission; and public witnesses.

CONSUMER CREDIT

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled "Helping Consumers Obtain the Credit They Deserve." Testimony was heard from public witnesses.

SECURING OUR BORDERS

Committee on Government Reform: Held a hearing entitled "Securing Our Borders: What Have We Learned From Government Initiatives and Citizen Patrols?" Testimony was heard from Robert C. Bonner, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security; Janice Kephart, former Counsel, National Commission on Terrorist Attacks Upon the United States; and public witnesses.

EMBASSY AND BORDER SECURITY

Committee on International Relations: Subcommittee on Africa, Global Human Rights and International Operations held a hearing entitled "Foreign Relations Authorization for FY 2005–2006: Embassy and Border Security." Testimony was heard from the following officials of the Department of State: Gregory B. Starr, Deputy Assistant Secretary, Countermeasures, Bureau of Diplomatic Security; MG Charles E. Williams, USA, (ret.), Director, Bureau of Overseas Buildings Operations; and Dan Smith, Principal Deputy Assistant Secretary, Bureau of Consular Affairs.

STATE DEPARTMENT TERRORISM REPORT

Committee on International Relations: Subcommittee on International Terrorism and Nonproliferation held a hearing entitled "Reviewing the State Department's Annual Report on Terrorism." Testimony was heard from Philip D. Zelikow, Counselor, Department of State; John O. Brennan, Interim Director, National Counterterrorism Center; Raphael F. Perl, Specialist in International Terrorism Policy, CRS, Library of Congress; and a public witness.

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on the Judiciary: Ordered reported, as amended, H.R. 1817, Department of Homeland Security Authorization Act for Fiscal Year 2006.

ILLEGAL IMMIGRATION ENFORCEMENT AND SOCIAL SECURITY PROTECTION ACT

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held a hearing on H.R. 98, Illegal Immigration Enforcement and Social Security Protection Act of 2005. Testimony was heard from Representatives Dreier and Reyes; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks held a hearing on the following bills: H.R.

323, To redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library;" H.R. 774, Rocky Mountain National Park Boundary Adjustment Act of 2005; and H.R. 1084, To authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862. Testimony was heard from Representatives Bradley of New Hampshire and Engel; Sue Masica, Associate Director, Park Planning, Facilities and Lands, National Park Service, Department of the Interior.

COMPUTER SCIENCE RESEARCH

Committee on Science: Held a hearing on the Future of Computer Science Research in the U.S. Testimony was heard from John H. Marburger, III, Director, Office of Science and Technology Policy; Anthony J. Tether, Director, Defense Advanced Research Projects Agency, Department of Defense; and public witnesses.

COAST GUARD AMENDMENTS

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on the Coast Guard Amendments of 2005. Testimony was heard from Calvin Lederer, Deputy Judge Advocate General, U.S. Coast Guard, Department of Homeland Security.

OVERSIGHT—VETERANS EMPLOYMENT AND TRAINING SERVICE

Committee on Veterans' Affairs: Subcommittee on Economic Opportunity held an oversight hearing on the U.S. Department of Labor, Veterans Employment and Training Service (VETS). Testimony was heard from Sigurd R. Nilsen, Director, Education, Workforce, and Income Security Issues, GAO; John M. McWilliam, Deputy Assistant Secretary, Operations and Management, Veterans' Employment and Training Service, Department of Labor; representatives of veterans organizations; and public witnesses.

SOCIAL SECURITY—ALTERNATIVES TO STRENGTHEN; COMMITTEE BUSINESS

Committee on Ways and Means: Held a hearing on Alternatives to Strengthen Social Security. Testimony was heard from public witnesses.

Prior to the hearing, the Committee approved pending business.

BRIEFING—GLOBAL UPDATES

Permanent Select Committee on Intelligence: Met in executive session to receive a Briefing on Global Updates. The Committee was briefed by departmental witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D 452)*

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. Signed on May 11, 2005. (Public Law 109–13)

COMMITTEE MEETINGS FOR FRIDAY, MAY 13, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: closed business meeting to continue markup of the proposed National Defense Authorization Act for Fiscal Year 2006, 9:30 a.m., SR–222.

House

Committee on Government Reform, hearing entitled "Domestic Source Restrictions Threaten Free Trade: What is the Federal Government Doing to Ensure a Level Playing Field in the Global Economy?" 10 a.m., 2154 Rayburn.

Committee on Homeland Security, Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity, hearing entitled "The Transportation Security Administration's Screening of Airline Pilots: Sound Security Practice or Waste of Scarce Resources?" 9:30 a.m., 210 Cannon.

Next Meeting of the SENATE

10 a.m., Friday, May 13

Senate Chamber

Program for Friday: Senate will continue consideration of H.R. 3, Transportation Equity Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, May 16

House Chamber

Program for Monday: Consideration of Suspensions—to be announced.

Extensions of Remarks, as inserted in this issue

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Congressional Record

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